

PROVINCE OF THE WESTERN CAPE  
DEPARTMENT OF TRANSPORT AND PUBLIC WORKS



# **WHITE PAPER ON THE MANAGEMENT OF PROVINCIAL PROPERTY**

**07 APRIL 2004**

**PROVINCE OF THE WESTERN CAPE  
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This White Paper is also available at <http://www.capegateway.gov.za>

## FOREWORD



The Western Cape Government believes in a caring and representative public sector providing quality, equitable and accessible services to all its people. We are therefore committed to addressing issues of poverty, disease, crime, remnants of racial division and other forms of marginalisation. In doing so, we are purposefully promoting integrated services by all spheres of government in the Province, and developing and maintaining quality infrastructure in order to achieve the vision of the Province.

Provincial property and property management processes are an indispensable part of achieving these outcomes. It is therefore essential that the management of the Provincial property occurs in a manner that is socially just, empowering and developmental. This White Paper provides the guidance to do so. It is the result of a long process of active participation by the widest possible group of stakeholders to ensure that sometimes diverging opinions and interests are reconciled and aligned with the Provincial objectives.

My sincere thanks to Mr. Kevin Roman and the members of the Task Team for the time spent, and their hard work and dedication in completing this policy on the management of provincial property. It is my firm intention to ensure that this White Paper will not remain merely a policy expression, but that it will make a significant contribution towards transformation and our continuous quest for equity, particularly as it relates to property infrastructure. I am confident that the management and staff of my Department and all other Provincial role-players will contribute to, and support the initiatives encapsulated in the document.

**Tasneem Essop**

**Minister of Transport, Public Works and Property Management**

**Provincial Government of the Western Cape**

# PROPERTY MANAGEMENT POLICY TASK TEAM

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## EXECUTIVE SUMMARY

Government land and buildings are valuable assets that were used divisively in the past. They should now be utilised optimally to undo negative legacies and to correct socio-economic deficiencies. Apart from providing and maintaining appropriate accommodation for Provincial services, the Branch: Public Works should therefore create opportunities for socio-economic development through employment, empowerment and redefining public space where possible. The objective of this White Paper is to determine a policy and implementation framework for the management of the fixed property of the Provincial Government of the Western Cape within this context and in adherence to the overarching objectives for the Province as adopted by the Provincial Cabinet.

The above-mentioned overarching objectives determine the value chain of activities provided by all the Provincial Departments. The Branch: Public Works is not only there to supply accommodation to User Departments, but also to be part of the integrated services rendered by other Provincial Departments and by other spheres and units of government. From a socio-economic perspective, this means that property services activities must deliberately support poverty-eradication processes, be aimed at eradicating asset poverty in historically disadvantaged areas, and stimulate economic activity and change the complexion of the Western Cape economy through black economic empowerment.

The requirement for being part of integrated service delivery inevitably implies that a broader range of policies should also be acknowledged when determining this policy. In particular, consideration is given to the Public Finance Management Act, 1999 (Act 1 of 1999 as amended by Act 29 of 1999); the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000); the Preferential Procurement Policy for the Province of the Western Cape; the Provincial Department of Transport and Public Works Preferential Procurement Implementation Plan (PPIP); the Western Cape Land Administration Act, 1998 (Act 6 of 1998); the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985); the National Ministry of Agriculture and Land Affairs White Paper on Spatial Planning and Land Use Management, 2001; and the Department of Public Works White Paper, 1997. In addition, good governance requirements emanating from the contemporary understanding of corporate governance, custodianship and stewardship, *Batho Pele* and environmentally sensitive development are also acknowledged as part of the broader policy framework.

The strategic framework for the policy is determined by the vision, mission, strategic goals and critical success factors of the Provincial Department of Transport and Public Works and further determined by the vision of the Branch: Public Works, namely "*Dynamic Provincial property*

*services to unlock value for the benefit of all*”, as well as by its Mission, “*To enhance service delivery through the provision, maintenance, and utilisation of the Provincial Property Portfolio for the benefit of all*”. These strategic constructs, together with the context as explained in the previous paragraphs, are encapsulated in a Strategic Imperative System for provincial property services in which qualitative and quantitative imperatives are acknowledged. The strategic framework is concluded with the identification of a number of property service-related critical success factors.

The institutional framework for the policy entails a partially outsourced structure, whereby the full responsibility and accountability for the provincial property portfolio are accepted by the Accounting Officer of the Department of Transport and Public Works, but some operational activities are outsourced to consultants, contractors and other external service providers. The elements of the institutional framework are:

- Provincial Government and the Executive Authority;
- The Minister of Transport, Public Works and Property Management;
- The Department of Transport and Public Works;
- The Branch: Public Works;
  - Asset Management;
  - Property Management;
  - Facilities Management;
- The Western Cape Property Committee;
- Property Users; and
- The interface between the Branch: Public Works and Property Users as determined by *Accommodation Needs, User Rights, the Users-Pay Principle and Service Levels*.

Policy directives regarding the functioning of the Branch: Public Works are described under the headings Asset Management, Property Management and Facilities Management. Asset management represents a strategic management approach to property services and, in a socio-economic development context, must be executed in adherence to empowerment requirements; its processes and results must serve developmental objectives; its planning of client accommodation

must be in the interests of a better quality of life for all members of society, and the disposal of surplus property must be socially just and accountable.

Property management deals with utilisation planning for individual properties as well as their management and administration. Its functioning is guided by the strategies determined by asset management, but it must also provide the necessary feedback for informing asset management of operational issues.

Facilities management, in turn, deals with maintaining, operating and developing properties. Its activities regarding corrective and preventative maintenance, upgrading and new construction are also guided by policy directives emphasising socio-economic development, in addition to providing appropriate accommodation for users.

Finally, the resource implications and performance measurement of the above functioning are considered. Information and communication technology, personnel, external service providers and revenue must be managed appropriately in order to ensure that the mandate of the Provincial Branch: Public Works, as described in this White Paper, is met. Performance measurement must cover both strategic and operational activities, but in the final instance must answer the following three questions:

- To what extent are the socio-economic needs of society being served?
- To what extent are the property needs of User Departments being satisfied?
- At what cost to the Province is this service being provided?

**The implementation of this policy will be incremental, but full implementation should be attained by 2008.**

## UITVOERENDE BESTUURSOPSOMMING

Staatsgrond en -geboue is waardevolle bates wat in die verlede verdelend gebruik is. Dit behoort nou optimaal aangewend te word om die negatiewe nalatenskappe ongedaan te maak en sosio-ekonomiese gebreke reg te stel. Benewens verskaffing en instandhouding van toepaslike akkommodasie vir provinsiale dienste, moet die Tak : Openbare Werke dus ook geleentheid skep vir sosio-ekonomiese ontwikkeling deur werksgeleentheid, bemagtiging en 'n herdefiniëring van openbare ruimte waar moontlik. Die oogmerk met hierdie witskrif is dus om binne hierdie konteks en ter voldoening aan die oorkoepelende doelwitte vir die provinsie soos deur die provinsiale kabinet aanvaar, 'n beleids- en implementeringsraamwerk op te stel vir die bestuur van die vaste eiendom van die provinsiale regering van die Wes-Kaap.

Bogenoemde oorkoepelende doelstellings bepaal die waardeketting van dienste soos gelever deur al die provinsiale departemente. Eiendomsdienste is nie net daar om akkommodasie aan Gebruikerdepartemente te voorsien nie, maar ook om deel te wees van die geïntegreerde dienste wat deur ander provinsiale departemente sowel as ander regeringsfere en -eenhede gelever word. Vanuit 'n sosio-ekonomiese perspektief beskou, beteken dit dat provinsiale eiendomsdiensaktiwiteite prosesse moet ondersteun wat ten doel het om armoede uit te wis, daarop gerig moet wees om bate-armoede in histories benadeelde gebiede uit te wis, en om ekonomiese aktiwiteite te stimuleer en die aansyn van die Wes-Kaapse ekonomie deur swart ekonomiese bemagtiging te verander.

Die vereiste om deel te wees van geïntegreerde dienslewering impliseer onvermydelik dat 'n breër reeks beleide erken moet word in die beskikbaarstelling van hierdie beleid. In die besonder word oorweging geskenk aan die bepalings van die Wet op Openbare Finansiële Bestuur, 1999 (Wet 1 van 1999, soos gewysig deur Wet 29 van 1999); die Wet op die Raamwerk vir Voorkeurverkrygingsbeleid (Wet 5 van 2000); die Toepassingsplan vir Voorkeurverkrygingsbeleid van die provinsiale Departement van Vervoer en Openbare Werke; die Wes-Kaapse Wet op Grondadministrasie, 1998 (Wet 6 van 1998); die Ordonnansie op Grondgebruikbeplanning, 1985 (Ordonnansie 15 van 1985); die nasionale Ministerie van Landbou en Grondsake se Witskrif oor Ruimtelike Beplanning en Bestuur van Grondgebruik, 2001, en die Departement van Openbare Werke se Witskrif, 1997. Daarbenewens word goeie landsbestuur, soos dit na vore kom in die hedendaagse begrip van korporatiewe regeerkunde, kuratorskap en rentmeesterskap, *Batho Pele*, en omgewingsensitiewe ontwikkeling ook erken as deel van die breër beleidsraamwerk.

Die strategiese raamwerk vir die beleid is vasgestel deur die visie, missie, strategiese doelwitte en kritieke suksesfaktore van die provinsiale Departement van Vervoer en Openbare Werke. Dit word verder bepaal deur die visie van die Tak: Openbare Werke, naamlik “*Dinamiese Provinsiale*

*eiendomsdienste om waarde tot almal se voordeel te ontsluit*”, en die missie, “*Om dienslewering te verhef deur die voorsiening, instandhouding en aanwending van die provinsiale Eiendomsportefeulje tot almal se voordeel*”. Hierdie strategiese konstrakte, tesame met die konteks soos verduidelik in die voorafgaande paragrawe, word ingesluit in ’n Strategiese Imperatiewe Stelsel vir provinsiale eiendomsdienste wat erkenning gee aan kwalitatiewe en kwantitatiewe imperatiewe. Die strategiese raamwerk word afgesluit met identifisering van ’n aantal eiendomsdiensverwante kritiese suksesfaktore.

Die institusionele raamwerk vir die beleid behels ’n struktuur wat gedeeltelik uitbestee is, waarvolgens volle verantwoordelikheid en aanspreeklikheid vir die provinsiale eiendomsportefeulje deur die Rekenpligtige Beampte van die Departement Vervoer en Openbare Werke aanvaar word. Sommige operasionele aktiwiteite word egter uitbestee na konsultante, kontrakteurs en ander eksterne diensverskaffers. Die elemente van die institusionele raamwerk is:

- Die provinsiale regering en uitvoerende gesag;
- Die Minister van Vervoer, Openbare Werke en Eiendomsbestuur;
- Die Departement van Vervoer en Openbare Werke;
- Die Tak: Openbare Werke;
  - Batebestuur;
  - Eiendomsbestuur;
  - Bestuur van fasiliteite;
- Die Wes-Kaapse Eiendomskomitee;
- Eiendomsgebruikers, en
- Die wisselwerking tussen die Tak: Openbare Werke en eiendomsgebruikers soos bepaal deur *akkommodasiebehoefte, gebruikersregte, die gebruikersbetaal-beginsel en diensvlakke*.

Beleidsdirektiewe oor die funksionering van die Tak: Openbare Werke word beskryf onder die opskrifte *Batebestuur, Eiendomsbestuur* en *Bestuur van fasiliteite*. *Batebestuur* verteenwoordig ’n strategiese bestuursbenadering tot eiendomsdienste en in die sosio-ekonomiese ontwikkelingskonteks moet daaraan uitvoering gegee word ter voldoening aan

bemagtigingsvereistes; die prosesse en resultate moet ontwikkelingsdoelwitte dien; die beplanning van kliëntakkommodasie moet in belang van 'n beter lewensgehalte vir almal in die samelewing wees, en wegdoening met surpluseiendom moet sosiaal regverdig- en verantwoordbaar wees.

*Eiendomsbestuur* handel oor gebruiksbepanning van individuele eiendomme sowel as die bestuur en administrasie daarvan. Funksionering van Eiendomsbestuur word gelei deur die strategieë wat by Batebestuur bepaal word, maar Eiendomsbestuur moet ook die nodige terugvoer verskaf om Batebestuur ingelig te hou oor operasionele kwessies. *Bestuur van fasiliteite*, daarenteen, handel oor fisiese instandhouding en bedryf en ontwikkeling van eiendomme. Die aktiwiteite rakende korrektiewe en voorkomende instandhouding, opgradering en nuwe konstruksies word ook gerig deur beleidsdirektiewe wat, benewens voorsiening van toepaslike akkommodasie aan gebruikers, sosio-ekonomiese ontwikkeling beklemtoon.

Laastens word oorweging geskenk aan die hulpbronimplikasies en prestasie-meting van bogenoemde funksionering. Inligtings- en kommunikasietegnologie, personeel, eksterne diensverskaffers en inkomste moet toepaslik bestuur word ten einde te verseker dat die mandaat van die provinsiale Tak: Openbare Werke, soos beskryf in hierdie witskrif, nagekom word. Prestasie-meting moet beide die strategiese en operasionele aktiwiteite dek, maar in die laaste instansie die onderstaande drie vrae beantwoord:

- Tot watter mate word die sosio-ekonomiese behoeftes van die samelewing gedien?
- Tot watter mate word die eiendomsbehoefte van Gebruikerdepartemente bevredig?
- Teen watter koste vir die provinsie word hierdie diens voorsien?

**Implementering van hierdie beleid sal inkrementeel geskied, maar volle implementering behoort teen 2008 behaal te wees.**

## USHWANKATHELO LWABAPHATHI

Umhlaba kunye nezakhiwo zikaRhulumente zizinto ezinexabiso ezazisetyenziswa ngomkhethe kwixesha elidlulileyo. Ngoku kufuneka zisetyenziswe ngokona kulunga ukuze kususwe imbali embi kwanokuba kulungiswe iintswelo zentlalo noqoqosho. Ngaphandle kokunikeza nokugcina indawo yokuhlala eyiyo ngeenkondo zePhondo, iinkondo zoMhlaba zePhondo kufuneka zidale amathuba ophuhliso lwezentlalo nezoqoqosho, ngokuveza imisebenzi, ngokuphuhlisa nangokuvuselela imihlaba engasetyenziswayo apho kuyimfuneko. Ngoko ke, injongo yeli Phepha liMhlophe kukwenza umthetho-siseko nobume bokwenza bolawulo olumileyo lomhlaba kaRhulumente wePhondo leseNtshona Koloni kwesi siza, kwakunye nasekubambeleni kwiinjongo ezisisiseko zePhondo, njengoko zamkelwe yiKhabhinethi yePhondo.

Iinjongo ezisisiseko ezixelwe ngentla zimisa umqokozo wezenzo owenziwa ngamaSebe ePhondo. Iinkondo zoMhlaba azikho nje kuphela ukuba zinikeze indawo yokuhlala kumaSebe abaSebenzisi, kodwa zikwakho ukuba zibe yinxalenye yeenkondo ezinxibelelanayo ezenziwa ngamanye amaSebe ePhondo, nazezinye iindawo kwanamacandelo karhulumente. Ngokombono wezentlalo nezoqoqosho, oku kuthetha ukuba izenzo zeenkondo zezokususa indlala kwiindawo ebezikade zicinezelekile zize zikhuthaze izenzo zoqoqosho, zitshintshe nebala lobuso kuqoqosho leseNtshona Koloni ngokuphuhlisa uqoqosho lwabantu abantsundu.

Imfuno yokuba yinxalenye yokunikezelwa kweenkondo ezidibeneyo ithetha ukuba ngokubanzi imigaqo ethile eyahlukeneyo mayithathelwe ingqalelo nayo xa kusenziwa lo mgaqo. Ingqwalasela mayinikwe ngakumbi kuMthetho woLawulo lweMali yoLuntu, wowe-1999 (Umthetho 1, wonyaka we-1999 njengoko ulungisiwe nguMthetho 29 wonyaka we-1999); isikhokelo soMthetho woKufumana oKukhethekileyo wowama-2000 (uMthetho 5 wonyaka wama-2000); uMthetho-siseko wokuFumana okuKhethekileyo wePhondo leseNtshona Koloni; uYilo loKwenza lokuFumana okuKhethekileyo lweSebe lePhondo lezoThutho neleMisebenzi yoLuntu (i-PPIP); uMthetho weNtshona Koloni woLawulo-mihlaba wowe-1998 (uMthetho we-6 wowe-1998); isihlokomiso sokuCwangciswa kokuSetyenziswa koMhlaba sowe-1985 (Isihlokomiso se-15 sowe-1985); Umthetho ondululwayo woMphathiswa weZolimo nowezeMihlaba nowokuYila imihlaba evulekileyo nokusetyenziswa nokulawulwa kweMihlaba lowama-2001; kunye noMthetho ondululwayo weSebe lemiSebenzi yoLuntu, wowe-1997. Ukongeza, iimfuno zolawulo olululo ezisukela ekuqondeni kweli xesha ulawulo oluxananazileyo oludibeneyo ubumnini nokuba sisicaka, (abantu phambili) *Batho Pele* kunye nophuhliso olukuthathela ingqalelo okusingqongileyo njengenxalenye yobume obubanzi besikhokelo somgaqo ngokubanzi.

Inkqubo engundoqo enenjongo yexesha elide yenziwe ngumbono, yinjongo, ziinjongo zexesha elide, nazizinto ezinempumelelo ezibonwayo zeSebe lezoThutho lePhondo nelemiSebenzi yoLuntu

ezimiswa ngokuthe chatha nguMbono weeNkonzo zoMhlaba, obizwa ngokuba “*Ziinkonzo zePhondo zoMhlaba eziGuquguqukayo ukuze zivule ixabiso eliluncedo kuye wonke ubani*”, kwakunye neNjongo yalo, “*Ukonyusa umgangatho wonikezo lwenkonzo ngokunikeza, ngokugcina nangokusebenzisa kwiSikhundla soMhlaba sePhondo ukuze kuncedwe wonke ubani*”. Ezi zimiselo zinenjongo yexesha elide kunye nesiza esichaziweyo kwimihlathi engaphambili zikwaqkwe kwiNkqubo eBalulekileyo eneNjongo yexesha elide yeeNkonzo zoMhlaba zePhondo, apho imiyalelo yohlobo neyobuninzi isamkelwa. Inkqubo engundoqo enenjongo yexesha elide igqityezelwa ngothotho lweemeko ezinempumelelo ebonwayo ezayamene nenkonzo yezoMhlaba.

Inkqubo engundoqo yomthetho-siseko yeziko ifuna isakhiwo esinxalenye ikhutshwayo, apho uxanduva olupheleleyo lweeNkonzo zePhondo lwamkelwa yiNtloko yoBukho beeNkonzo zoMhlaba zePhondo, kodwa ezinye izenzo eziqhubekayo zikhutshelwa abacebisi, iikhontrakha kunye nabanye abanikezi beenkonzo bangaphandle. Izinto ezifunekayo zenkqubo engundoqo yeziko zezi:

- URhulumente wePhondo neGunya labaPhathi;
- UMphathiswa wezoThutho, imiSebenzi yoLuntu noLawulo loMhlaba;
- Depart Transport and Public Works
- ISebe: ImiSebenzi yoLuntu, ekuthiwa buBukho beeNkonzo zoMhlaba;
  - ULawulo lweZinto;
  - ULawulo loMhlaba;
  - ULawulo lweZinto ezisetyenziswayo;
- IKomiti yaseNtshona Koloni yoMhlaba;
- Abasebenzisi boMhlaba; kunye
- NeNtsebenziswano phakathi koBukho beeNkonzo zoMhlaba njengoko imiswe *ziimfuno zeNdawo yokuHlala, amaLungelo abaSebenzisi, uMthetho-siseko wokuHlawula koMsebenzisi kwakunye nemiGangatho yeeNkonzo.*

Imigaqo yomthetho-siseko emayela nokusebenza koBukho beeNkonzo zoMhlaba ichazwa phantsi kwemiba yeZinto, yoMhlaba kunye neyoLawulo lweZinto ezisetyenziswayo. ULawulo lwezinto lubonisa indlela yolawulo oluneenjongo zexesha elide kwiiNkonzo zoMhlaba nakwisiza sophuhliso

lwezentlalo nezozoqosho. Malwenziwe ngokubambelela kwiziqinisekiso zophuhliso; iinkqubo zazo kunye neziphumo mazifezekise iinjongo zophuhliso; uyilo lwazo lwendawo yokuhlala yabaxhasi malubonise umdla kumgangatho ongcono wobomi kuwo onke amalungu oluntu, kuze ukulahlwa kwentsalela yomhlaba kube kokukuko kuluntu kwaye kube noxanduva.

ULawulo loMhlaba lungqinelana noyilo losetyenziso lomhlaba womntu omnye kwakunye nolawulo lwawo. Ukusebenza kwalo kukhokelwa ziindlela ezimiswe luLawulo lweZinto, kodwa kukwafuneka luphinde lunikeze impendulo efunekayo yokwazisa uLawulo lweZinto ngemiba eqhutywayo. ULawulo lweZinto ezisetyenziswayo lona luhambisana nokugcina, nokwenza kwanokuphuhlisa imihlaba. Izenzo zalo ezingqinelana nogcino olululo nolukhuselayo, ulwakhiwo oluphuculwayo nolutsha nazo zikhokelwa yimigaqo yomthetho-siseko egxininisa uphuhliso lwezentlalo nezozoqosho ngaphandle kokunikeza indawo yokuhlala eyiyo kubasebenzisi.

Ukuphetha, imibono yezinto eziluncedo kwakunye nomlinganiselo wokwenza oku kusebenza kungentla, kuyaqwalaselwa. Ubugcisa bolwazi nonxibelelwano, abaqeshwa, abanikezi beenkonzo bangaphandle nengeniso; konke oku makulawulwe ngendlela eyiyo ukuze kuqinisekiswa ukuba iGunya loBukho beeNkonzo zoMhlaba zePhondo njengoko zichaziwe kweli Phepha liMhlophe liyafezekiswa. Umlinganiselo wokwenza mawuquke izenzo zeenjongo zexesha elide kwanezo ziqhubekayo, kodwa ekugqibeleni maziphendule le mibuzo mithathu ilandelayo:

- Ingaba iimfuno zentlalo nezozoqosho loluntu zenziwe kangakanani na?
- Ingaba iimfuno zomhlaba zamaSebe abaSebenzisi zaneliswe kangakanani na?
- Ingaba le nkonzo inikezwe ngeliphi ixabiso kwiPhondo?

**Ukwenziwa kwalo mthetho-siseko kuza kongezwa, kodwa ukwenziwa okupheleleyo kugqitywa ngonyaka wama-2008.**

## GLOSSARY

### **Accommodation**

Accommodation refers to immovable property being land or land and improvements (infrastructure and buildings) required by the Western Cape Provincial Government User Departments and other users for the execution of their core business.

### **Accounting Officer**

Accounting Officer means the accounting officer defined as such in terms of Section 36 of the **Public Finance Management Act, 1999** (Act 1 of 1999, as amended by Act 29 of 1999). Every department has an accounting officer who is the head of the department and who must ensure that the department maintains effective, efficient and transparent systems of financial and risk management and internal control; a system of internal audit under the control of an audit committee; an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective; and a system for properly evaluating all major capital projects prior to a final decision on the project (**Public Finance Management Act, 1999**, Sections 36 to 43).

### **Accrual Accounting Practice**

Accrual accounting means that revenue and costs are accrued - i.e. recognised as they are earned or incurred, not as money is received or paid – and matched with one another so far as their relationship can be established or justifiably assumed for the period to which they relate.

### **Acquisition**

Acquisition refers to the procurement of immovable property by means of purchasing, leasing, exchange and/or donations (**Western Cape Land Administration Act, 1998** (Act 6 of 1998), Sections 1 and 2).

### **Clients**

Clients, as referred to in this document, means the Provincial Government Departments, the Legislature, and other users of Provincial properties.

### **Deemed Market Value (Rental)**

The deemed market value (rental) allocated to land and buildings is a benchmark for assessing under-utilisation, over-utilisation, obsolete buildings, and highest and best usage (see also Market Value).

### **Disposal**

Disposal refers to the alienation of immovable property through either the selling, ceding, exchange or letting thereof (**Western Cape Land Administration Act**, 1998, Sections 1 and 3).

### **Empowerment**

Empowerment entails acquiring or setting up leverage for the marginalised and disadvantaged to ensure broader distribution of economic benefit and the expansion of sought-after capabilities. In a property services context the broad process of empowerment is supported by the provision of accommodation for services that would develop such capabilities. In a narrower sense, empowerment is promoted through the "levelling of playing fields" by applying the Preferential Procurement Policy consisting of the **Procurement Policy Framework Act**, 2000 (Act 5 of 2000); and the Provincial Department of Transport and Public Works Preferential Procurement Implementation Plan (PPIP). Black Economic Empowerment (BEE) in turn is defined by the Black Economic Empowerment Commission (2001:2) as:

*"... an integrated and coherent socio economic process. It is located within the context of the country's national transformation programme, namely the RDP. It is aimed at redressing the imbalances of the past by seeking to substantially and equitably transfer and confer the ownership, management and control of South Africa's financial and economic resources to the majority of its citizens. It seeks to ensure broader and meaningful participation in the economy by black people to achieve sustainable development and prosperity".*

### **Ennoblement**

Ennoblement of a property entails either refurbishing, where a property is redecorated, service systems are removed or upgraded, and where applicable, refurnishing is done; and/or developing or redeveloping where structures are erected or structural changes are made; and/or re-planning, where the initial zoning and purpose of a property are changed.

### **Facilities Management**

Facilities management is concerned with the maintenance, operations and development of the physical, environmental and technological infrastructure of properties. It encompasses a wide range of activities performed by several role players with the same goal of maintaining and

improving immovable property. Activities include provision and maintenance of infrastructure, lifecycle planning, technical planning, as well as mechanical and physical systems planning.

### **Fixed Asset Property Register**

The Fixed Asset Register contains information in respect of all the fixed properties (land and improvements) registered in the name of the Western Cape Provincial Government as well as servitudes in favour of, bequests and properties reverting back to the Province, and properties being utilised by the Provincial Government.

### **Market Value**

Market value is defined as “the estimated amount for which a property should exchange on the date of valuation between a willing buyer and willing seller in an arms’ length transaction after proper marketing wherein the parties had acted knowledgeably, prudently and without compulsion” (IVSC Standards 2000). This definition applies equally to leasing and letting of property.

### **Property Asset Management**

In the context of Provincial Government, property asset management is concerned with property investments and integration with other properties in the Province – primarily to fulfil the provincial functions aimed at realising the overarching objectives for the Province and in adherence to Schedule 4 and 5 of **The Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)** – in such a manner that the best social and economic return for owners or stakeholders are ensured.

### **Property Management**

Property management is concerned with the management and administration of properties. The responsibilities revolve around the qualitative performance of property, ensuring the most efficient, effective and economic utilisation of space, and the timely and effective reporting and accounting of income and expenditure.

### **Provincial Property Portfolio**

The portfolio consists of properties registered in the name of, or vesting in the Western Cape Provincial Government, leased properties and portions of Provincial road reserves made available by the Provincial Roads Engineer for non-road use. Properties registered in the name of, or vesting in, the Western Cape Provincial Housing Board, as well as borrow pits, road reserves and sites reserved for roads are, however, excluded. Housing properties are managed in terms of the **Western Cape Housing Development Act, 1999 (Act 6 of 1999)** or the **Housing Act, 1997 (Act**

107 of 1997) and roads property in terms of the **Provincial Roads Ordinance**, 1976 (Ordinance 19 of 1976) and are currently excluded from the managed portfolio.

### **Strategic Provincial Accommodation and Infrastructure Plan (SPAIP)**

This Plan is compiled from the inputs of User Departments who derive their accommodation requirements from their strategic objectives. The Plan is annually revised and re-prioritised to determine the order of construction or alternative means of providing the accommodation.

### **Public-Private Partnership**

“A Public-Private Partnership (PPP) is a contractual arrangement between a public sector entity and a private sector entity whereby the private sector performs a departmental function in accordance with an output-based specification for a specified, significant period of time in return for a benefit, which is normally in the form of financial remuneration. It furthermore involves a substantial transfer of all forms of project life cycle risks to the private sector. The public sector retains a significant role in the partnership project either as the main purchaser of the services provided or as the main enabler of the project” (National Treasury, 2001). The private partners can be private firms, non-governmental organisations or community-based organisations.

### **Public-Public Partnership**

A public-public partnership is an agreement between two or more public sector entities for various transactions to ensure integrated service delivery.

### **Service Level Agreement**

A Service Level Agreement refers to the agreement between the User Department and the Branch: Public Works and/or a service provider to provide certain specified services and define the rights and obligations of both parties.

### **Service Provider**

A service provider, being the provider of services to either the Branch: Public Works or the User Department, may be providing such services as contractor, consultant or as other “private party” in a public-private partnership agreement as per Regulation 16.1 of the National Treasury Regulations, 2002.

### **Source Document**

The source document contains the data procured and analysed for the compilation of this White Paper and is available at the offices of the Head of the Branch: Public Works.

## **User Charges**

A user charge is a monetary value levied for the use of the immovable property allocated to the Users and is either a market-related charge, or – in the absence of a profit motive - based on recovery of the full cost of owning and maintaining the property.

## **User Right Agreement**

The User Rights Agreement is a contract between the Branch: Public Works and the User Department whereby the rights and obligations for both parties are laid down regarding individual properties to be utilised by that User Department.

## **User Department**

A User Department refers to a Provincial Department that utilises immovable property of the Western Cape Provincial Government (also see *Clients*).

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# CHAPTER 1: BACKGROUND AND POLICY CONTEXT

## 1.1 INTRODUCTION

Since 1994 all spheres and units of government in South Africa have faced, and are facing, the challenge of undoing past wrongs and creating a fair and just society. They must, in the spirit of cooperative governance, endeavour to align and integrate their energy and resources to do this. Simultaneously, transformation and rationalisation (both provincially and nationally) have resulted in existing institutional arrangements for the management of property becoming less functional.

Land and buildings of government structures are valuable assets that were divisively utilised in the past. These assets should be optimally utilised to undo the negative legacies and create an integrated society within which every individual is empowered to live and participate on an equal footing. Socio-economic deficiencies in the Province such as unemployment, poverty and inequality are fundamental challenges that must be addressed. The inequality is highly race- and gender-based and so are the impediments denying those who are marginalised access to services and opportunities.

Activities relating to the management, acquisition, development, maintenance, utilisation and disposal of properties should make a contribution in the response to the massive challenge facing Governments. The Provincial Government of the Western Cape has the responsibility to interpret the particular circumstances in the Province. This must be done, not only by providing and maintaining the required accommodation for Provincial services, but, especially in the particular business of property services, by creating opportunities for socio-economic development through employment, by redefining and redesigning public space and through economic empowerment.

The necessity for a holistic and integrated experience of space and sense of place is an undeniable part of government's obligation to enhance the personal social welfare of all the inhabitants of the country and to maintain it above a certain minimum level. The absence of such an experience is undoubtedly expensive in terms of direct, indirect and externality costs.

*A Green Paper on the Management of Provincial Property*, published in May 2001, explored the context of managing property in the Province of the Western Cape and set out a vision and strategic framework as well as policy options.

It is appropriate to briefly set out the profile of the Provincial Property Portfolio as at the date of this White Paper. The number of properties owned by the Province amounts to 6 567 erven or farms, totalling 187 359 ha in area of land, 705 ha in area of buildings, with a value of R1 billion and R25

billion respectively. There are 569 erven or farms which make up the leased properties, with an area of 372 ha and valued at R87 billion per year. The individual allocation to the Departments amounts to:

- Agriculture – 48 erven/farms;
- Community Safety – 19 erven;
- Cultural Affairs and Sport – 52 erven;
- Education – 4 085 erven;
- Environmental Affairs – 151 erven;
- Health – 245 erven;
- Social Services – 23 erven;
- Transport and Public Works (including other smaller departments) – 93 erven/farms; and
- Property Management – Properties in use and unallocated vacant erven - 1607erven/farms.

## 1.2 TERMS OF REFERENCE

The Task Team responsible for drafting the Green Paper has been re-appointed and mandated to produce a White Paper within the following Terms of Reference:

1. Address permissible and appropriate uses of provincial properties through socially just, developmental and empowering processes;
2. Create sustainable opportunities for utilising the Provincial Property Portfolio for poverty alleviation, job creation, income generation and demographic integration through planning;
3. Consider the institutional framework and practices for the management of provincial properties as well as for the management of the Western Cape Provincial Government's property-related relationships with other departments within the Province, organs of state and the private sector;
4. Develop overarching policies for the management, acquisition and disposal of provincial properties **through socially just, developmental and empowering processes;**
5. Identify legislative measures that may be necessary to implement the policy;

6. Consider and identify any other matter which in the opinion of the task team has a bearing upon the management of provincial properties.

### **1.3 OBJECTIVE OF THE WHITE PAPER**

This *White Paper on the Management of Property in the Western Cape* outlines an agreed policy and implementation framework to guide the activities relating to the fixed properties of the Western Cape Provincial Government's and other properties utilised by the Province.

### **1.4 FOCUS AND SCOPE OF THE WHITE PAPER**

This document focuses on the management of the property portfolio of the Provincial Government and property-related activities that impact upon the overarching objectives of the Provincial Government. The scope of the White Paper also covers coordination with the property management activities of other public and civil society role players in the Province.

### **1.5 RELATING PROPERTIES TO THE OVERARCHING OBJECTIVES FOR THE PROVINCE**

The Cabinet of the Western Cape has adopted 10 overarching policy objectives. These objectives are intended to guide future work in stimulating social and economic development. Properties and their appropriate management are key elements to:

- establish the Western Cape Government as caring and representative, providing quality, equitable and accessible services to all its people;
- orientate Government towards addressing the problems of the poor by ensuring basic services, an indigent policy, a safety net and a caring budget;
- fight HIV/AIDS and other diseases in a coordinated and comprehensive manner which includes the provision of anti-retroviral drugs, lifestyle intervention and sustained action against poverty;
- deracialise and integrate all state-financed institutions in a responsible manner to maintain stability and good order;
- develop the capacity of local government to ensure the rapid and comprehensive implementation of Integrated Development Programmes (IDP) and free basic services;
- stimulate economic growth – both in the traditional and emerging sectors – with appropriate infrastructure development and to the benefit of all through, amongst other things, procurement reform;
- focus on agriculture and tourism as they have a bearing on rural development so that all inhabitants can live harmoniously and in safety;

- promote policies which will maintain a healthy balance between protecting the environment and developing the economy;
- contain and eradicate crime through good intergovernmental cooperation so that the Western Cape can be a safe and secure home, especially for its women and children; and
- nurture our diversity and promote our various cultures, religions and languages so that they may become the source of our unity and strength.

## **1.6 STRUCTURE OF THE WHITE PAPER**

Following upon this introductory chapter, the White Paper is structured as follows:

**Chapter 2** identifies and describes the socio-economic context of provincial property services in relation to the bigger Provincial Government picture and current considerations regarding income poverty, asset poverty and stimulating the local economy.

**Chapter 3** describes the broader policy and governance framework for the management of Provincial Property.

**Chapter 4** describes the strategic and institutional framework for the Branch: Public Works. The Vision and Mission of the Department of Transport and Public Works and of the Branch, strategic imperatives, critical success factors and institutional arrangements of the Branch are described.

**Chapter 5** sets out the functioning of the Branch: Public Works by demarcating asset, property and facilities management activities.

**Chapter 6** describes the resource implications of the policy as well as performance measurement of its execution.

**Chapter 7** identifies the activities required for the implementation of the policy.

## **CHAPTER 2: THE SOCIO-ECONOMIC CONTEXT OF PROVINCIAL PROPERTY SERVICES**

### **2.1 INTRODUCTION**

Chapter 1 sets out the background and context of the policy on the management of provincial property by explaining the objectives, focus and scope of the White Paper and by relating properties to the overarching objectives for the province as adopted by Cabinet as Executive Authority of the Western Cape Government. In Chapter 2 the socio-economic context of the policy is further explained in terms of three contemporary sets of considerations affecting the value chain encompassing property services, as well as the provincial services supply chain within which the Branch : Public Works is an important link. These are:

- Contributing towards the eradication of income poverty;
- Eradicating asset poverty; and
- Stimulating the local economy

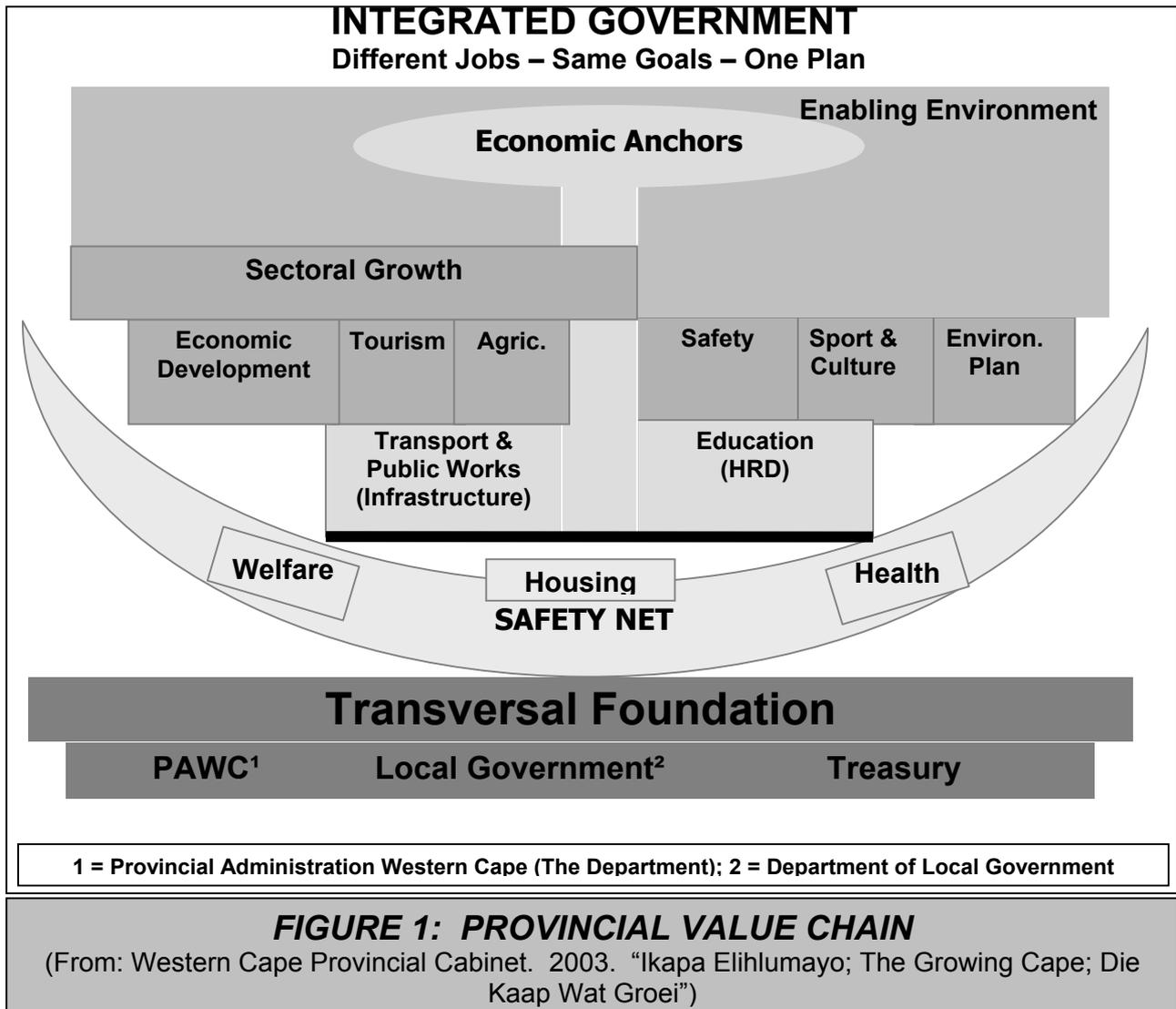
However, before these considerations can be explored, the application of the value chain and supply chain management constructs in the socio-economic context of provincial property services needs to be clarified. This will be done in Section 2.2 under the heading, *Supporting Provincial Outcomes*. The above-mentioned three sets of considerations will then be explored in Sections 2.3 to 2.5, before conclusions are drawn on the socio-economic context of property services and aspects flagged for further consideration in the strategic and institutional framework set out in Chapter 4 and the policy directives relating to the functioning of the Branch: Public Works formulated in Chapter 5.

### **2.2 SUPPORTING PROVINCIAL OUTCOMES**

Development is a core concern expressed in all contemporary South African policies - and rightly so. Even the broadest normative classification of government functions acknowledges that all members of society have a right to order and protection, social welfare and economic welfare services in support of living without fear of social disruption and personal threats in an acceptable quality physical environment providing ample and equal opportunities to subsist. Where these conditions are absent or below an acceptable standard, it is the obligation of government to do everything within its means to raise these conditions up to that acceptable standard.

The introduction to Chapter 1 related the management of provincial property to developmental concerns and stated that the Provincial Government of the Western Cape has the responsibility to

interpret the particular circumstances in the Province. This interpretation is based on the 10 overarching policy objectives of the Provincial Cabinet as referred to in Section 1.5. *The Growing Cape*, a policy concept for explaining the interdependence of the Provincial Departments also *inter alia* illustrates the concept of integrated government by means of the diagram provided in Figure 1, whereby the contribution of the various departments is related to the bigger picture. This may be referred to as a **Provincial Value Chain**, with each of the Provincial Departments contributing to the “One Plan”, striving for the “Same Goals” with “Different Jobs”.



A value chain is broadly understood to refer to a string of entities working together to satisfy market demands, while management of the value chain would entail maximising total performance and added value across an entire process by reviewing all internal and external operations as well as the links between these operations. In the Provincial Government context the entities are Provincial Departments with their internal and external service provision structures and linkages, and the market demands are the interests of all members of society.

Although indicators such as life expectancy, infant mortality, the health status of the Province and total fertility reveal that the Province is generally better off than the rest of the country, poverty and inequality are fundamentally similar to that in the rest of the country. The socio-economic development needs provide a strong determinant for any public service in the Province and further determines that there should be a strong focus on the micro level, namely on the socio-economic upliftment of individuals and families. The implications from a provincial property perspective are that it should contribute to such upliftment through its own property-related value chain.

In its most reduced interpretation provincial property services may only be perceived as a support service for providing accommodation to individual User Departments. As such, it is part of the sequence of events or **supply chain** of the functional departments providing services to society. With such an understanding, there is little motivation for the existence of a dedicated Provincial Branch: Public Works, should these various supply chains be considered separately. However, as illustrated by Figure 1, such an interpretation defies the idea of integrated service delivery.

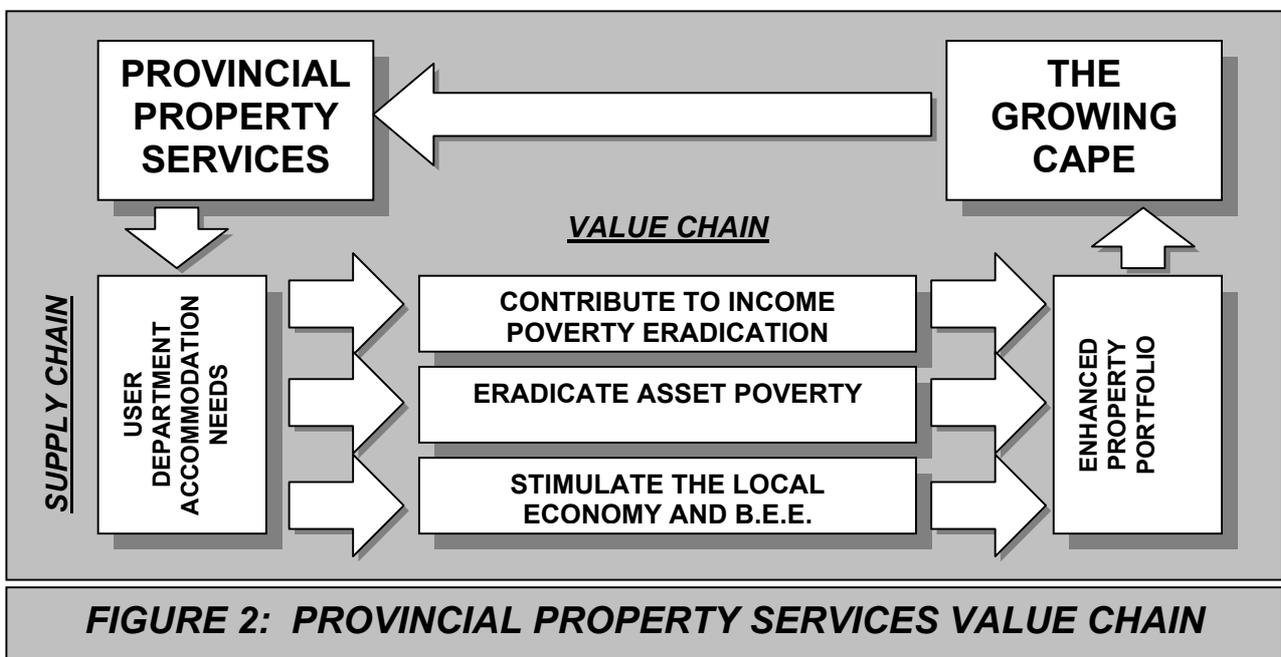
Integrated service delivery as implied in the value chain construct is also a manifestation of the cooperative government requirement expressed in Chapter 3 of **The Constitution** 1996. Integrated service delivery promotes the notion of “seamless government” organised around the needs of society, rather than members of society having to find their way amongst endless fragments of government services in order to receive public services and adhere to the law. The starting point for ensuring integrated service delivery is therefore to understand the needs of society within the reality that society is made up of various structures, stakeholders and interests. Society, however, is not homogeneous and therefore the context may differ from community to community. Not all communities in the Province suffer from income and asset poverty and lack of economic opportunities, but it is in the interest of society as a whole that a special emphasis should be placed on alleviating poverty and giving people access to economic opportunities. In order to serve the needs as determined by such a context, property services should be integrated with the following other services:

- The social and economic welfare as well as the safety and security services rendered by the various line departments of the Province who rely on the Branch: Public Works to provide appropriate accommodation;
- The same services rendered by other spheres and units of government and non-governmental service providers in the Province, who may utilise space in Provincial properties, or whose accommodation needs call for some form of property-related coordination;

- o Property-related services provided by other spheres and units of government where the integrated planning of such properties can correct the fragmentation and spatial divisions and duplications caused by apartheid; and
- o All infrastructure-related services in the Province, including buildings, streets, roads, bridges, dams, canals, railways, electrical and water reticulation networks, harbours and airports, in order to develop the Province in accordance with an integrated development plan whereby infrastructure will support development, and the provision of such infrastructure will eradicate income and asset poverty and develop economic opportunities on a massive scale.

In the above situation, the Branch: Public Works plays varying roles, from ensuring that the accommodation needs of Provincial departments are integrated and not considered separately and in isolation, to a more responsive role where it does not have the mandate to initiate or drive Province-wide integrated infrastructure development, but must ensure that all property service activities of the Provincial Government serve such integrated development and give professional input to the various processes supporting it. This determines the **Provincial Property Services Value Chain**.

Figure 2 provides a diagrammatic illustration of this value chain. It shows that the accommodation required as part of the supply chains of User Departments and other Provincial service providers in



fulfilling their functions must be satisfied by means of a process that will support income poverty eradication, eradicate asset poverty and stimulate the local economy in order to improve the quality of life of all members of society. This will result in an enhanced Provincial property portfolio that

will in turn contribute to the desired outcome of a *Growing Cape*. This outcome will then further inform the functioning of property services.

## **2.3 CONTRIBUTING TO INCOME POVERTY ERADICATION**

Alleviating income poverty caused by unemployment or underemployment and low skills levels is one of the most pressing needs in the South African society and is the responsibility of all spheres and units of government as well as of civil society structures. Although the National Department of Social Development accepts the responsibility for determining poverty eradication policies and providing an enabling environment for poverty eradication, while the Provincial Department must ensure delivery, it remains the responsibility of all government structures to support poverty alleviation and contribute to poverty eradication. In this regard the fourth pillar of the Western Cape Provincial White Paper titled *Preparing the Western Cape for the Knowledge Economy of the 21<sup>st</sup> Century* (2001) is *The Cape of Good Hope for All*, with policy objectives *inter alia* to make poverty alleviation and job creation a central objective of provincial development policies. Provincial property services must contribute to income poverty eradication by creating opportunities for employment, instilling labour intensiveness and providing opportunities for small and medium enterprises in construction processes.

### **2.3.1 Employment creation**

Although the construction industry already provides significant employment opportunities in the Western Cape, more must be done to ensure that those members of society who are worst off because of impediments caused by age, gender or status are specifically targeted. Provisions in building and maintenance contracts must ensure that a determined percentage of the total contract budget goes either to direct employment of such targeted groups by contractors or indirect employment opportunities in the supply chain of contracts.

### **2.3.2 Instilling labour intensiveness**

Contractors cannot be expected to adhere to labour intensiveness where work is designed in such a manner that capital-intensive construction is the obvious solution to ensure efficient delivery. It is therefore the obligation of the Branch: Public Works to earmark specific projects that are suitable for labour-intensive designs and specifications and to enforce labour-intensive construction in these projects by penalising violations of the specifications.

### **2.3.3 Providing opportunities for small and medium enterprises**

Small and medium enterprises (SMEs) may not initially be able to execute large-scale projects or projects of a complex nature, but they can be sub-contractors or suppliers of material or plant to contractors of such projects. The Branch: Public Works must drive a process for developing

adequate capacity amongst SMEs to enable them to be worthy nominated sub-contractors or suppliers, and contractual provisions must be put in place to compel contractors to use their products or services.

## **2.4 ERADICATING ASSET POVERTY**

Although the Western Cape Province could superficially be considered fortunate for having one of the best property infrastructures of all the provinces, serious forms of asset poverty threaten sustainable service delivery in the Province. Asset poverty refers to deficiencies in assets required for accommodating public services. Manifestations of asset poverty vary from properties not adhering to general or specific user requirements (such as not providing access to the disabled), to poorly maintained properties, properties not suitable for human habitation and the total absence of certain services in areas where they are the most needed due to the unavailability of suitable accommodation.

Such asset poverty should be linked to the statement in the introduction to this White Paper to the effect that addressing the need for a holistic and integrated experience of space and sense of place was acknowledged as an undeniable part of the obligation of government. This should also be considered as going far beyond the narrow boundaries of the mandate of the Provincial Branch: Public Works. In its White Paper, *Public Works towards the 21<sup>st</sup> Century* (1997) the National Department of Public Works (DPW) for example, has also acknowledged the need for an integrated approach to rectify asset poverty, by stating:

***Redressing uneven development:*** *Consistent with urban and rural spatial policy, the DPW is committed to redress uneven geographical development by increasing both the provision of public services as well as asset creation through new public facilities in underdeveloped areas. This will entail extensive interaction with other government departments and local community organisations of various sorts, and capacity-building support so that communication and consultation is a two-way process.*

The Branch Public Works must actively contribute towards this holistic drive to eradicate asset poverty in the maintenance, upgrading and provision of Provincial properties and by entering into and supporting partnerships with other state and civil society role players in the property arena. In adherence to this requirement, it must specifically focus on the following:

### **2.4.1 Ensuring accessibility onto all Provincial properties serving the public**

The Branch: Public Works should ensure that all Provincial properties serving the public provide unobstructed access to all its users, including the disabled.

#### 2.4.2 Revitalising the entire provincial property infrastructure

The Branch: Public Works must ensure that the entire provincial property infrastructure is continuously revitalised by eradicating maintenance backlogs and by maintaining the current infrastructure to avert its degeneration. “Slippage” in this regard was often allowed in the past to rectify short-term budget deficits, but this proved very expensive in the long run where the neglect of corrective and preventative maintenance and upgrading to keep up with highest and best usage demands caused serious further damage that could have been averted. This contributed significantly towards aggravating asset poverty to the extent that some properties were no longer suitable for human habitation.

#### 2.4.3 Providing accessible, appropriate and adequate new accommodation

The absence of essential Provincial services in certain rural and historically disadvantaged communities serves to maintain and increase the inequalities caused by apartheid. Demographic changes have further increased asset poverty by making certain services inaccessible due to their remoteness. The provision of new accommodation must bring about and maintain the required accessibility and adequacy and must keep pace with further demographic changes.

#### 2.4.4 Providing accommodation that contributes to the well-being of provincial employees

It is acknowledged that accommodation not only fulfils a functional purpose, but that it also affects the physical and spiritual well-being of provincial employees and other users. All available knowledge must be utilised and research initiated to ensure that new internal and external spaces created contribute positively to such well-being and to rectify existing negative spaces where possible, because such negative spaces are manifestations of asset poverty.

#### 2.4.5 Providing productive assets

Assets capable of generating wealth must be developed in conjunction with other role-players, especially but not exclusively in rural and historically disadvantaged communities which were deprived of facilities that could promote business opportunities. The Branch: Public Works must support initiatives to identify this form of asset poverty and actively seek ways of developing such assets.

#### 2.4.6 Participating in a Province-wide infrastructure development drive

The establishment of the Cape Convention Centre has shown that partnerships with other state and civil society role players can be entered into in order to create productive assets in the Province. The potential for further partnerships in establishing world-class infrastructure in the Province is almost endless, but this requires “champions” to activate the process. The Branch:

Public Works should provide such “champions” where so determined by circumstances and must actively contribute towards research in this regard.

## **2.5 STIMULATING THE LOCAL ECONOMY**

The economic development obligation of any government includes stimulating economic development in order to create more general welfare and prosperity for each individual to share in according to his or her own contribution (including removing obstacles in the way of individuals in gaining access to economic opportunities), providing and maintaining the economic infrastructure, and undertaking and financing scientific research in aid of economic development.

As illustrated in Figure 1, various Provincial Departments are directly involved in such functions by means of the provision and maintenance of physical infrastructure. Infrastructure helps create wealth and prosperity. Infrastructure supports development, because it creates favourable conditions for production and consumption, facilitates economic diversification and provides access for people to services and opportunities. Infrastructure investment contributes towards economic growth to the extent that for every 10% increase in the stock of public infrastructure capital, output increases between 2% and 3% (Umrabulo No. 16, August 2002). Both the processes and the products of provincial property services contributes to economic development, but a special emphasis is currently placed on promoting equity by removing obstacles in the way of, and providing access for previously disadvantaged individuals to economic activities as illustrated by this quotation from the 10 overarching objectives of the Western Cape Government: *“To stimulate economic growth – both in the traditional and emerging sectors – with appropriate infrastructure development and to the benefit of all through, amongst others, procurement reform”*.

In this regard the economic reform strategy of the National Department of Trade and Industry (DTI) focuses on micro-economic reform, which refers to detailed aspects in specific sectors of the economy. They accept that there are two economies in South Africa: *“The developed economy suffers from a lack of cost competitiveness in relation to the global economy. The underdeveloped part of the economy, which represents the experiences of a high proportion of South Africans, is an area where economic potential is not being enabled and harnessed due to backlogs and under-investment in social and productive capital”* (DTI, 22 May 2003). In the light of this assessment, provincial property services should be rendered to ensure the following:

### **2.5.1 Harnessing economic potential**

The process of providing accommodation and acquiring, developing, maintaining and disposing of provincial properties should maximise employment opportunities for emerging role players. Such an approach includes buying locally produced goods to stimulate local economic development. In the utilisation of property, space should obviously be utilised optimally in order to minimise

development and maintenance costs but, added to that, the potential of each property in general and surplus space in particular for correcting the remaining spatial divisions and asset poverty of the city and region that cause economic development impediments should be explored. In short, no single Provincial property should only be viewed as place upon or from which a single government function is executed, but must be seen as containing opportunities for harnessing economic potential.

### 2.5.2 Empowerment

Property-related activities can bring about accelerated work opportunities, but a deliberate effort is required to facilitate entry of historically disadvantaged individuals into niche centres relating to construction plant, material and also new specialised service niches. Empowerment serves both socio-economic and economic objectives. The domination of economic activities by a narrow group of people and particularly the exclusion of black people and women from these activities inhibits development. This will not disappear by itself and requires the focused implementation of empowerment policies and strategies whereby the historically disadvantaged are supported in gaining access to capital and opportunities to level the playing fields. Such support must be accompanied by a deliberate strategy to capacitate participants to sustain the benefits gained.

According to the South African Black Economic Empowerment Commission, an empowerment strategy should be seen within the context of the country's transformation. It is aimed at redressing the imbalances of the past by seeking to substantially and equitably transfer and confer the ownership, management and control of South Africa's financial and economic resources to the majority of its citizens. Empowerment seeks to ensure broader and meaningful participation in the economy by historically disadvantaged people to achieve sustainable development and prosperity.

Empowerment therefore entails a process of acquiring or setting up leverage for the historically disadvantaged. The 10 overarching objectives of the Province as set out in Chapter 1 address the responsibility to empower people. Fundamental to relating these objectives to empowerment, **The Constitution of the Republic of South Africa**, 1996 (Act 108 of 1996), determines *inter alia* that legislative and other measures designed to protect or advance the previously disadvantaged may be taken (Section 9(2)). Empowerment is also appropriate in terms of Item 1.2.5 of the White Paper on Transforming Public Service Delivery, (*Batho Pele* White Paper) 1997 (Department of Public Service and Administration, Notice 1459 of 1997), where it is stated *inter alia* that "improving the delivery of public services means redressing the imbalances of the past".

The meaning of empowerment as enshrined in **The Constitution** (1996) and other policy documents should be related to the broad scope of empowerment processes that include job creation, meaningful ownership and access to finance in order to conduct business. But specifically in relation to the rendering of property services, empowerment means opening a

window of opportunity for members of the historically disadvantaged business sector in order to promote equity whereby all role players can compete on a level playing field. Preferential or targeted procurement is one instrument of empowerment whereby historically disadvantaged individuals, businesses and sectors of society are allowed an equitable opportunity to gain access to the otherwise secluded revenue-generating activities of a concerted property services programme. However, this in no way implies that specified and expected service standards should be compromised, or that it should lead to cost increases. In fact, the benefit of such a policy is not only that past inequalities are rectified, but also that new sources of supply are developing capacity to increase competition, thereby promoting more economical procurement.

### 2.5.3 Capacity building

Empowerment, as described above, implies capacity, without which the required service standards will be compromised. The process to capacitate has three dimensions: access to opportunities, access to resources and competence. The first entails ensuring that property-related services are outsourced in such a way that access by historically disadvantaged service providers is not denied through conditions (such as experience) they cannot meet exactly because they have previously been denied opportunities for attaining what is required of them. The second entails ensuring that conditions for accessing resources, as well as administrative and institutional systems, do not inhibit the capacity of historically disadvantaged service providers. The third is to ensure that the required expertise and levels of sophistication are incrementally developed and enhanced through various forms of “incubation”.

## 2.6 CONCLUSIONS

Socio-economic development has many interwoven elements addressed by all the Provincial Departments and other service providers. This chapter makes it clear that it must also be the concern of the Branch: Public Works by structuring and prioritising its operations in a manner that will maximise income poverty eradication, asset poverty eradication as well as economic development accompanied by empowerment and capacity building. Empowerment and capacity building should be actively and holistically managed to ensure sustainable empowerment benefit rather than the uncoordinated and haphazard “scattering” of benefits. A concerted property services programme and accompanying budgetary allocation has the potential to ensure not only that the Province retains the value of its fixed assets, but also that it will contribute substantially towards sustainable micro-economic development with the opportunities it generates. The operational instructions of this strategy will be further described in Chapter 5, but the broader policy and governance framework for the management of provincial property must first be explained in Chapter 3 and the strategic and institutional framework in Chapter 4.

## **CHAPTER 3: BROADER POLICY AND GOVERNANCE FRAMEWORK FOR THE MANAGEMENT OF PROVINCIAL PROPERTY**

### **3.1 INTRODUCTION**

The first two chapters of this White Paper provide the background and socio-economic context of provincial property services. It is clear that such services must be integrated with various other services to serve the interests of society optimally and fulfil the potential of Provincial properties to contribute substantially to socio-economic development. This integrated approach brings provincial property services within the sphere of influence of a number of other policies. The objective in Chapter 3 is therefore, firstly, to relate provincial property services to the broader policy environment and secondly, to demonstrate that such a service must also adhere to the requirements of good governance if it is to fulfil its role in the provincial value chain satisfactorily.

### **3.2 PREREQUISITES FROM THE BROADER POLICY FRAMEWORK**

The broader policy framework affecting the management of Provincial property consists of legislation and other policy documents of the National and Provincial Governments. Annexure A provides a summary of these policies, but the most important of them are also described below.

#### **3.2.1 The Public Finance Management Act, 1999 (Act 1 of 1999, as amended by Act 29 of 1999).**

This Act and the Treasury Regulations published in terms of Section 76 of the Act give effect to Sections 213 and 215 to 219 of the Constitution (1996) and prevail over all other legislation except the Constitution. The Act serves to regulate financial management in the National and Provincial Governments; to ensure that all revenue, expenditure, assets and liabilities are managed efficiently and effectively; and to provide for the responsibilities of persons entrusted with financial management and matters connected therewith. This Act provides a concurrent national and provincial framework for dealing with assets, including property belonging to the Province. It also focuses on the outputs and responsibilities of management and improving financial management in the Province.

In this case the Member of the Executive Committee, as political head of the Department, is responsible for policy matters and outcomes, while the head official of the Department, as the accounting officer of the Department, is responsible for the outputs and implementation, in addition to being accountable to the Provincial legislature. It is the responsibility of the accounting officer to

ensure effective, efficient, economical and transparent use of the resources of the Department, while at the same time safeguarding and maintaining the assets.

The Regulations set out clear guidelines as to the responsibilities of the accounting officer of the department as regards disposal of assets in the form of immovable property, in addition to the safekeeping and proper usage of such property. The Regulations also make provision for entering into public-private partnerships where a private party may be in a better position to execute the functions or utilise properties in the interest of the public.

### 3.2.2 The **Preferential Procurement Policy Framework Act**, 2000 (Act 5 of 2000).

This Act gives effect to Section 217 of the Constitution (1996) by providing that an organ of state, in this case, the Provincial legislature or other institution, when contracting for goods or services must do so in accordance with a system which is fair, equitable, transparent, competitive and cost effective. The Act provides a framework for implementation of a preferential procurement policy for goods or services which provides categories of preference in the allocation of contracts and protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination.

### 3.2.3 The Preferential Procurement Policy for the Province of the Western Cape, 2002.

This policy document sets about consolidating a number of initiatives of the National Treasury and the Provincial Tender Board to reform the procurement process and to address and redress the historical imbalances that prevail and which inhibit the economic participation of the historically disadvantaged members of the society. The policy has the broad objectives of ensuring a number of general principles, viz.:

- increase in the participation in provincial procurement opportunities by the historically disadvantaged members;
- increased participation of small and medium enterprises and to encourage linkages between them;
- promotion of local labour and skills transfer and training;
- promotion of joint ventures and partnerships;
- support for the creation of employment in the Province; and
- promotion of a uniform procurement approach in all the provincial procurement substructures.

All procurements for property services must adhere to the requirements of this policy.

### 3.2.4 Department of Transport and Public Works, Province of the Western Cape: Preferential Procurement Implementation Plan (PPIP).

The objectives of the PPIP can be summarised as ensuring a clear commitment to the involvement of historically disadvantaged and marginalised sectors of our community in creating sustainable property infrastructure through practices which are socially just, developmental and empowering. The intended outcome of the PPIP and thus a commitment to transformation through procurement processes is to achieve demographically representative building and road construction and maintenance industries.

### 3.2.5 The **Western Cape Land Administration Act**, 1998 (Act 6 of 1998).

This Act provides for the acquisition (purchase, exchange, receipt through donation or leasing) of immovable property and the disposal (sale, exchange, donation or letting) of Provincial state land and sets out that the Premier of the Province may acquire or dispose of such property, in addition to the procedure for such acquisition or disposal. This latter issue relates to the Land Capital Account within the Provincial Revenue Fund into which proceeds of any disposal must be paid, the establishment of a consolidated register of all Provincial state land and the reporting mechanisms. The Act confirms the importance of the principle of cooperative governance.

The Land Administration Regulations made under Section 10 of this Act and published under Public Notice 595 of 1998 (PG 5296 of 16 October 1998) determine the norms, standards and procedures applicable to acquisition, exchange, disposal and letting of Provincial land, demolition of buildings on such land, donations of Provincial land as well as general space and cost norms applicable in the Province. Regulation 5 determines that all User Departments must regularly evaluate their use of land with a view to determine surplus, further requirements for land or further improvements required, and that they must report annually on the results of these evaluations.

### 3.2.6 The **Land Use Planning Ordinance**, 1985 (Ordinance 15 of 1985)

This Ordinance serves to regulate land use planning and provide for matters incidental thereto in the Province of the Western Cape. It provides for structure plans, zoning schemes, subdivision of land, a Planning Advisory Board and other related matters. All land use planning in the Province, excluding former black development areas, must adhere to the provisions in this Ordinance. Although the **Black Communities Development Act**, 1984 (Act 4 of 1984) has been repealed, the Ordinance must be read in conjunction with the still relevant Regulations providing for land use planning in former black local areas made under the Act.

### 3.2.7 Ministry of Agriculture and Land Affairs, 2001, *Wise Land Use*, White Paper on Spatial Planning and Land Use Management.

The White Paper sets about providing a uniform, effective and efficient framework for spatial planning and land use management in both the urban and rural contexts, clarifying and resolving much of the legislative disarray and issues which arose from the apartheid system. The major impact of this policy is that it has rationalised the many planning laws into a single system applicable to each province.

The significant principles and norms set out in the White Paper are aimed at the achievement of sustainability, equality, efficiency, fairness and good governance in spatial planning and land use management. In addition, a category of authority, known as land-use regulators, able to take particular decisions relating to spatial planning and land use management is introduced. Provision is also made for the setting up of a provincial land-use tribunal and appeal tribunal to be utilised in specific situations. The White Paper also contains a uniform set of procedures for the approval of land development proposals which would apply to the whole country, eliminating the situation where there are differing procedures in the different provinces and even within provinces where there are different procedures in different "apartheid race zones".

### 3.2.8 Department of Public Works, 1997, *Public Works towards the 21<sup>st</sup> Century*, White Paper.

This White Paper accepts as its premise that investment in social and economic infrastructure in South Africa will play an important role in increasing the productivity of labour and business, thereby contributing to a much higher growth rate. It further accepts that South Africa faces a huge backlog in infrastructure, and that innovative financial strategies and careful prioritisation will be needed if sufficient progress is to be made. As such, public works should:

- contribute to the generation of sustainable economic growth;
- apply a redistribution of income in favour of the poor through the immediate provision of opportunities for citizens to undertake useful work;
- implement sustainable employment creation;
- expand human resource development;
- engage new production regimes that stress labour-intensity for workers, and community participation as well as control for beneficiaries;
- actively promote affirmative action with respect to race, gender and youth;
- integrate disabled people as producers and consumers of services;

- provide active support for small, medium and micro enterprises, as well as cooperatives and non-profit NGOs;
- ensure rapid and dependable delivery of services and facilities, especially in under-served areas, and increased quality and standards in underdeveloped areas;
- increase the creation of durable assets in underdeveloped areas to redress uneven geographical development; and
- promote environmental protection, energy conservation and increased public access to South Africa's natural and built heritage.

This White Paper reflects the intention of the National Department of Public Works to establish a durable strategy that sets out key departmental programmes for the next few years. It also demonstrates how South Africa's broader socio-economic objectives will be met in part through expanded investments in public works and dynamic changes in the approach to public works programmes, property investments, property and facilities management and project management. In the interest of integrated service delivery the Branch: Public Works must support and integrate its own property services with this strategy.

### **3.3 GOOD GOVERNANCE PREREQUISITES**

Good governance represents the paradigm for the public sector at the start of the 21<sup>st</sup> Century, which entails a shift away from rigid administration based on strict rules and regulations, bureaucracy and top-down management, but without discarding accountability requirements. It also involves more than the New Public Management approach with its strong business principles and reliance on professional bureaucracy.

Good governance does not reject good administration and sound management, but recognises continuous learning and improvement, cross-functionality, and interdependence as critical in the context of public services. A culture of good governance relates to maintaining social stability and well-being through deepening democracy, structuring social relationships and conflicts and ensuring responsive delivery (Wooldridge and Cranko, 1995).

In the context of provincial property services, the socio-economic focus of the previous chapter has dealt with some aspects of good governance, but in addition attention should be devoted to the issue of ensuring responsive delivery. In this section responsive delivery is understood as a recognition of corporate governance principles, custodianship and stewardship responsibilities, the *Batho Pele* (people first) service delivery principles as well as environmentally sensitive development as prerequisites in adherence of good governance.

### 3.3.1 Corporate Governance

Recent events in the international commercial and financial community, as well as the focus on events in South Africa, have given added impetus to the words of the President of the World Bank, Jim Wolfensohn (1998) that “*the proper governance of companies will become as crucial to the world economy as the proper governance of countries*”. The World Bank in 1994 defined corporate governance as “*the manner in which power is exercised in the management of a country’s economic and social resources for development*”. This is true for the private and the public sector (World Bank, 1994).

The King Report on Corporate Governance for South Africa 2002 (known as the King II Report), a ground-breaking document, which has had and will continue to have the effect of encouraging and promoting corporate governance in South Africa at a time of substantial and fundamental change to the socio-political-economic landscape in the country, while the country is playing an increasingly prominent role on the African and world stage. To quote from the King II report:

*“...successful governance in the world in the 21<sup>st</sup> century requires companies to adopt an inclusive and not exclusive approach. The company must be open to institutional activism and there must be greater emphasis on the sustainable or non-financial aspects of its performance. Boards must apply the test of fairness, accountability, responsibility and transparency to all acts or omissions and be accountable to the company but also responsive and responsible towards the company’s identified stakeholders. The correct balance between conformance with governance principles and performance in an entrepreneurial market economy must be found, but this will be specific to each company”* (King Committee on Corporate Governance, 2002).

The applicability of the principles of corporate governance as described in the King I and King II reports for the Provincial Branch: Public Works, relates to a recognition of the relevance of the following:

- The influence and use of information technology for good property services;
- The triple bottom line, i.e. social, economic and environmental performance measured according to a *balanced scorecard* performance measurement approach (see Chapter 6);
- Accountability for the economic, effective and efficient use of resources;
- Meeting the challenges and opportunities afforded by the New Partnership for Africa’s development (NEPAD) and the advent of the African Union (AU);
- Openness to institutional activism;

- The seven characteristics of good corporate governance, namely discipline, transparency, independence, accountability, responsibility, fairness and social responsibility;
- The nine aspects of the African worldview and culture, namely spiritual collectiveness, consensus, humility and helpfulness, reconciliation, co-existence, fairness, morality, consultation and optimism;
- Leadership for global competitiveness, probity, social responsibility, accountability and transparency; and
- Risk management, internal and external auditing, integrated sustainability reporting, organisational integrity and a code of ethics.

These aspects are echoed in the policy framework as explained in Section 3.2 and will also be reflected in the description of the functioning of the Branch: Public Works and resource implications in Chapters 5 and 6, respectively, of this White Paper.

### 3.3.2 Custodianship and Stewardship

It is a basic democratic principle that governments are custodians – rather than the owners – of public resources, including properties, and as such should deal with such resources in a manner reflecting a high standard of professional ethics. With reference to the management of public resources, the South African National Treasury (2000:3) uses the construct “stewardship” to encapsulate how important it is for public managers to realise and accept responsibility for the successful running of their organisations, as this relates to the manner in which the resources available to the organisation are used.

South African legislation and guidelines - such as the **Public Finance Management Act (1999)** - support reform aims to streamline resource management in the South African public sector and, in the process, to reduce fraud, corruption and waste. More efficient and effective use of public resources will maximise the capacity of a government to deliver services. Such legislation enables accounting officers to manage, but at the same time holds them accountable for the resources they use. It establishes clear lines of accountability and broad frameworks of best practices that managers can follow. It is not intended to make managers so cautious - for fear of contravening the law - that they fail to deliver the outputs agreed in their departmental budgets. In fact, any accounting officer under-spending or under-performing (both of which must be monitored regularly by the executive authority) also transgresses the law and is open to the sanctions specified.

In the private sector financial management focuses on the examination of alternative sources of finance, the effective utilisation of such finance, and cohesion between financial and utilisation

decisions. Conversely, in the public sector the focus is on the prioritisation and use of scarce resources, on ensuring effective stewardship over public money and assets, as well as on achieving value for money in meeting the objectives of government, i.e. rendering the best possible services.

The above must be undertaken transparently and in terms of all relevant legislation. This White Paper accepts the notions of custodianship and stewardship for the management of Provincial properties.

### 3.3.3 *Batho Pele* (People First)

The White Paper on Transforming Public Service Delivery (*Batho Pele* White Paper) published by the South African Department of Public Service and Administration in 1997 serves the purpose of providing a policy framework and a practical implementation strategy for the transformation of public service delivery.

It is claimed in the document (1997:9) that the White Paper is primarily about *how* public services are provided, rather than *what* services are provided. This is based on eight principles:

- (1) Consultation;
- (2) Service standards;
- (3) Access;
- (4) Courtesy;
- (5) Information;
- (6) Openness and transparency;
- (7) Redress; and
- (8) Value for money.

The White Paper therefore addresses aspects relating to the attitudes of officials towards high-performance service delivery. These principles reflect a Total Quality Management (TQM) attitude and are therefore accepted as part of the human behaviour prescriptions for the management of Provincial property.

### 3.3.4 Environmentally sensitive development

The so-called triple bottom line of corporate governance requires that companies must demonstrate a concern with the environment and accept their obligations in this regard. **The**

**National Environmental Act**, 1998 (Act 107 of 1998) provides for cooperative, environmental governance by establishing principles for decision-making affecting the environment.

The Act *inter alia* determines in Section 2 that:

*(3) Development must be socially, environmentally and economically sustainable.*

*(4)(a) Sustainable development requires the consideration of all relevant factors including the following:*

*(i) that the disturbance of ecosystems and loss of biological diversity are avoided, or, where they cannot be altogether avoided, are minimised and remedied;*

*(viii) that negative impacts on the environment and on people's environmental rights be anticipated and prevented, and where they cannot be altogether prevented, are minimised and remedied.*

*(e) Responsibility for the environmental health and safety consequences of a policy, programme, project, product, process, service or activity exists throughout its life-cycle.*

Provincial property services are bound by the stipulations of this Act.

### **3.4 CONCLUSIONS**

The broader policy framework as explored above further demarcates the position of the Branch: Public Works amongst other role players with similar responsibilities in the public sector. It also provides instructions for ensuring accountability in the delivery of services. The prerequisites for good governance as defined in terms of corporate governance, custodianship and stewardship, the *Batho Pele* principles and requirements for environmentally sensitive development further frames the manner in which provincial property services must be delivered. The strategic and institutional framework, functioning of the Branch: Public Works and resource implications are directly affected by this framework. The ensuing chapters will deal with the detail on how this is to be interpreted.

# CHAPTER 4: STRATEGIC AND INSTITUTIONAL FRAMEWORK

## 4.1 INTRODUCTION

The context and framework within which the management of Provincial Property must be undertaken were discussed in Chapters 1, 2 and 3. In Chapter 4 the information provided in the previous chapters will be applied to the internal environment of the Branch: Public Works. A strategic and institutional framework will be defined in terms of the following:

- The vision and mission of the Branch: Public Works;
- Strategic imperatives;
- The critical success factors; and
- Institutional arrangements for the management of the provincial fixed property portfolio.

## 4.2 VISION AND MISSION

The Vision of the Department of Transport and Public Works *is to provide the best provincial transport system and property infrastructure for all*. This will be realised as stated in the Mission, namely, *to deliver an integrated, accessible, safe, reliable, affordable, sustainable and quality transport system and property infrastructure through socially just, developmental and empowering processes, to improve the quality of life for all*.

In adherence to the above Departmental vision, the Branch: Public Works has defined its Vision and Mission as follows:

**VISION:**

*Dynamic Provincial property services to unlock value for the benefit of all.*

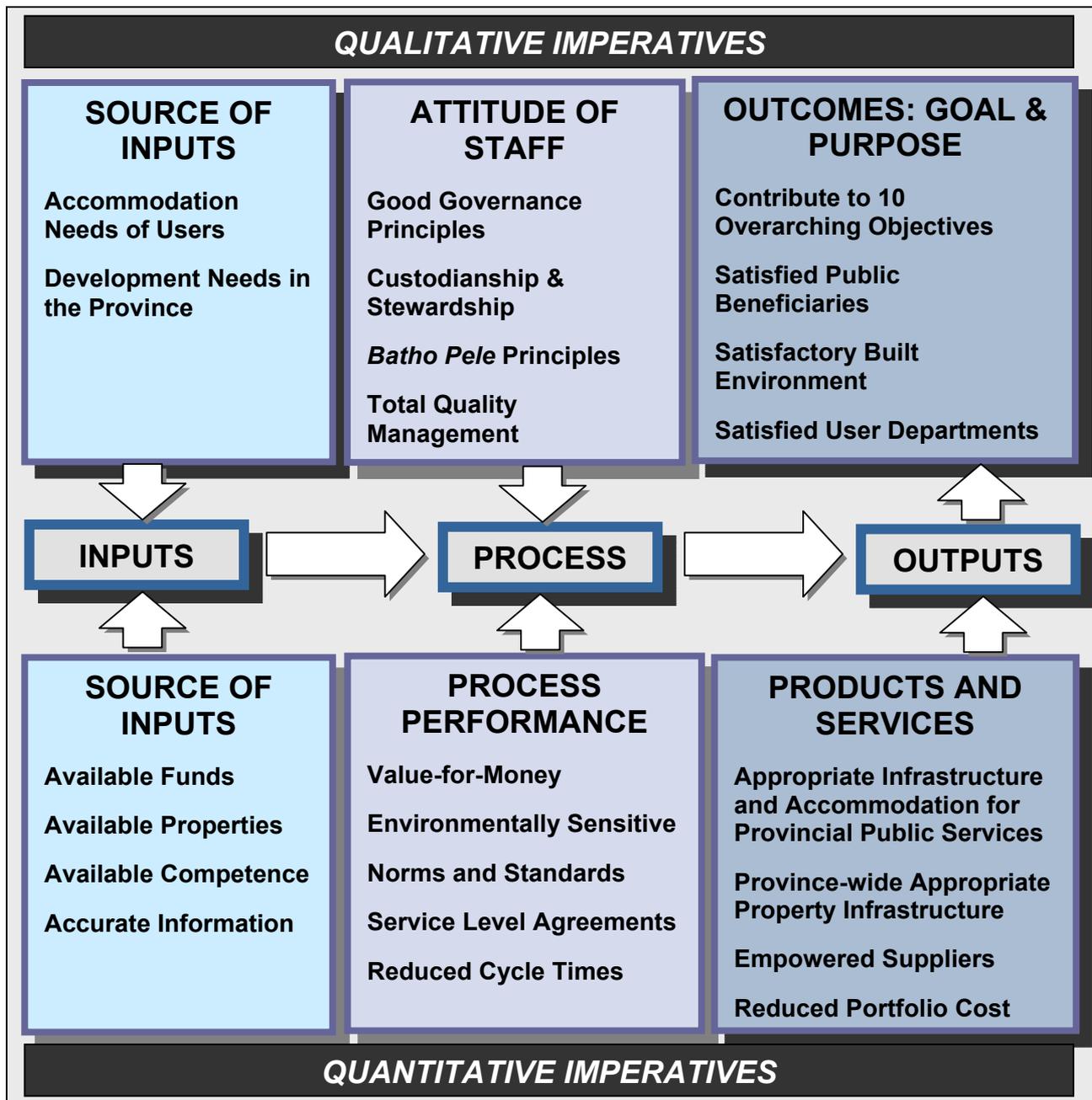
**MISSION STATEMENT:**

*To enhance service delivery through the provision, maintenance, and utilisation of the Provincial Property Portfolio for the benefit of all.*

### 4.3 STRATEGIC IMPERATIVES, OBJECTIVES AND GOALS

Strategic imperatives underpinning the policy on property services in the Western Cape are related to requirements expressed in the previous chapters of this document. These can also be reconciled with national and provincial policy imperatives as identified in the Western Cape Fiscal Policy (Western Cape Provincial Government, 2003: 1).

Some imperatives represent the qualitative aspects in the process of managing Provincial property, while others that support high-performance management are also indispensable. Figure 3 outlines a strategic imperative system for the management of Provincial property.



**FIGURE 3: STRATEGIC IMPERATIVE SYSTEM FOR PROVINCIAL PROPERTY SERVICES**

Strategic objectives are to support the socio-economic and economic development objectives of government through:

- Supply chain management whereby accommodation is provided for Provincial functions; and
- Value chain management whereby properties are directly applied for the purposes of job creation, capacity building, spatial integration and empowerment as well as for generating income for the Province.

To achieve the Vision and Mission of the Department of Transport and Public Works, the following strategic goals of the Department are supported through the management of Provincial property:

- To maximise the empowerment opportunities for communities living in poverty;
- To maximise the employment opportunities for communities living in poverty;
- To realign institutional arrangements, processes, systems and resources in order to provide access and opportunities, both economic and social, to all communities, with a bias towards the poor and the historically disadvantaged, and to promote rural development;
- To plan, regulate and facilitate the provision of public transport services and infrastructure, through its own provincial resources and through co-operation with national and local authorities, as well as the private sector in order to enhance the mobility of all communities particularly those currently without or with limited access;
- To accelerate transformation and maximise people development and empowerment in order to improve service delivery;
- To promote communication, consultation, partnership and capacity building with all spheres of government;
- To promote integrated planning according to the principles of co-operative governance; and
- To promote inter- and intra-departmental planning processes as well as inter-sectoral planning.

#### 4.4 CRITICAL SUCCESS FACTORS

Management of the working environment of the Department of Transport and Public Works is guided by the following principles:

- Delivery-orientated;
- Community-needs driven;
- People-centred;
- Innovative;
- Promoting leadership;
- Highest level of integrity and ethics;
- A development-orientated focus;
- Promoting socially just and excellent service delivery;
- Accountability and transparency;
- Valuing our human resources;
- Respect for diversity;
- Representivity; and
- A learning organisation adapting and responding to changing opportunities.

The above should be considered as the critical success factors for the management of provincial property as well, but more specifically the following requirements must be met by the Branch: Public Works to adhere to the performance requirements as set out in Figure 3.

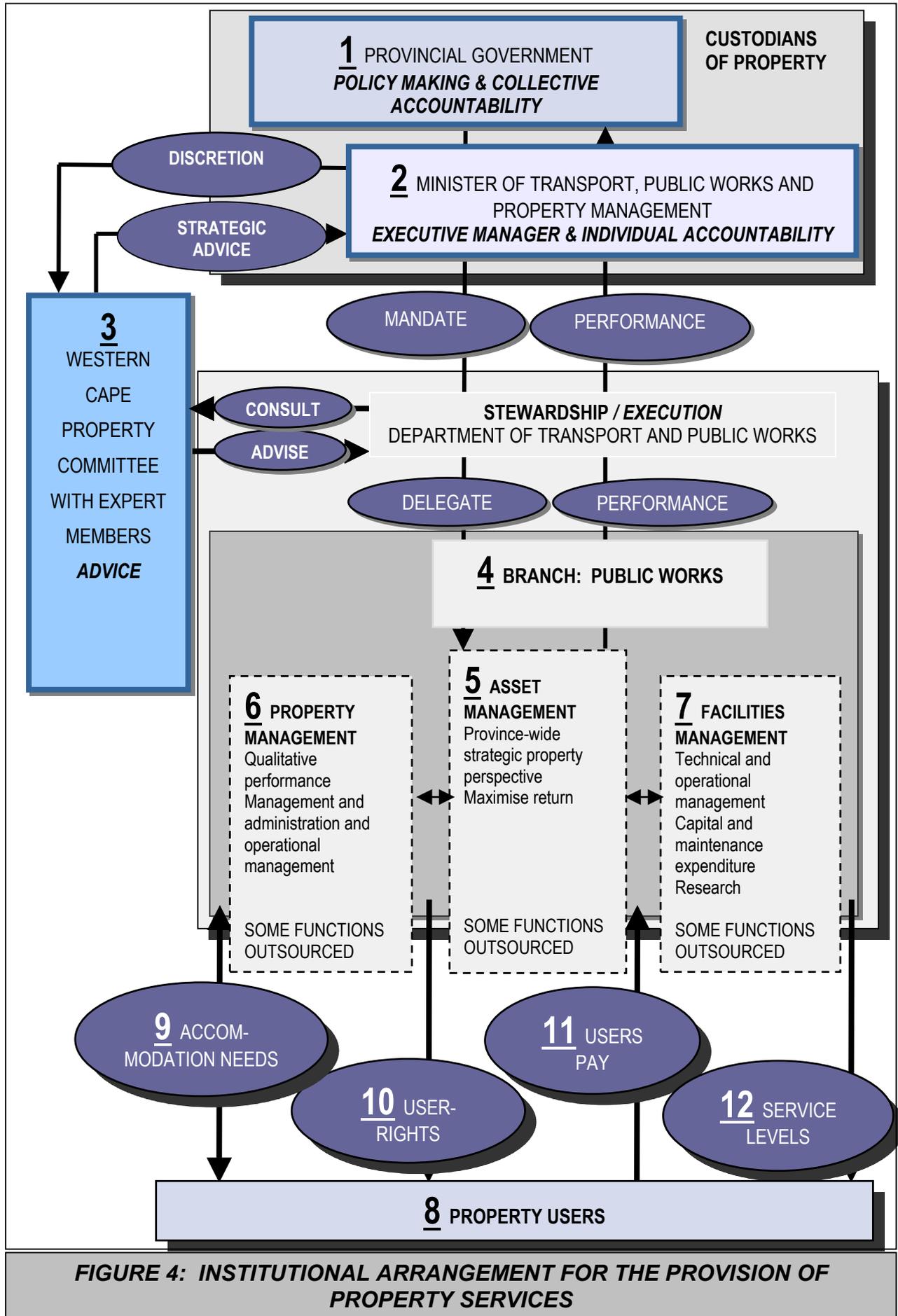
- **Financially sustainable:** This requirement is concerned with a long-term perspective, which links properties to the Vision and Mission of the Province. Acquisition, management and disposal of a property need not only be considered in terms of initial value for money, or lifecycle costing, but also in terms of how these will serve the Provincial Vision and

Mission. Such an approach may cause short-term increases in expenditure in order to gain long-term benefits.

- **Competent:** This requirement is an issue because the management of property requires leveraging and enhancing practices, skills and competencies as well as technologies on the cutting edge of the field of specialisation.
- **Creative:** This requirement entails fresh responses to new and unresolved demands of the 21<sup>st</sup> century. Technological and other advances in the environment bring new solutions, which need to be recognised in the core functions of provincial property services.
- **Innovative:** This requirement entails the ability to implement creative ideas. The South African policy environment is richly endowed with creative ideas as described in the thousands of pages of green and white papers, but lack of innovative approaches to implementing them still results in inaction.
- **Inclusive:** This requirement implies ensuring that all potential stakeholders are involved. This includes those in other spheres and institutions of government, as well role players in the non-governmental and business sectors. Inclusiveness also means linking up in partnerships to add value to core business functions.
- **Integrated:** This requirement implies that properties should be managed from a comprehensive Province-wide and all-user portfolio perspective in order to ensure highest and best use and also that properties should be integrated with other Provincial infrastructure, as set out in Chapter 2.
- **Consistent:** This requirement entails applying the same sound management principles to all Provincial properties in utilising them to serve Provincial objectives without having to deal with exceptions caused by divergent arrangements and expectations of various role players. Consistency, however, does not exclude addressing the specialised needs of clients and users.

#### 4.5 INSTITUTIONAL ARRANGEMENTS

The Green Paper on the Management of Provincial Property, released on 23 May 2001, proposed four possibilities whereby a Property Services Division could be linked to the bigger Departmental and Provincial structure. These options were:



- A full internal structure whereby the whole range of property services would be rendered by in-house staff.
- A partially outsourced functioning whereby some property services would be rendered by contractors and consultants on a temporary basis, but with full delegated responsibility still carried by the Head of the Branch: Public Works.
- A fully outsourced functioning whereby all activities except policy formulation, strategic management, budgeting and monitoring are rendered by an independent service provider.
- A corporate entity whereby an independent juristic entity with Board of Directors is created to function outside the Provincial structure.

It is clear from the feedback received from consultation and written submissions that the majority of stakeholders require that the second option be applied. Figure 4 illustrates the institutional arrangement for this option. Each of the numbered elements on the model is discussed below.

## 1 PROVINCIAL GOVERNMENT AND THE EXECUTIVE AUTHORITY

Section 133 (1) of **The Constitution** (1996) determines that the Members of the Executive Council of a province are responsible for the functions of the executive assigned to them by the Premier. Section 133 (2) further determines that Members are *inter alia* accountable collectively for the exercise of their powers and the performance of their functions. As such they are the custodians of provincial property. Individual functions such as property services must be aligned with the overarching objectives as set out Chapter 1, because each function still serves the collective outcomes.

## 2 THE MINISTER OF TRANSPORT, PUBLIC WORKS AND PROPERTY MANAGEMENT

Section 133 (2) of **The Constitution** (1996) also determines that Members of the Provincial Council are accountable individually to the legislature for the exercise of their powers and the performance of their functions. According to Section 132 (2), the Premier assigns the Minister of Transport, Public Works and Property Management the responsibility to act as Executive for the management of provincial property.

The **Public Finance Management Act** (1999) provides a further interpretation of the nature of this accountability in the explanatory memorandum to the Act, where it states that the political head of a department is responsible for policy matters and outcomes. Outcomes imply a wider

effect and impact than the mere output of the service; they are never achievable by one single set of service outputs only, but can only be achieved by a purposeful integration and reconciliation of services.

Provincial properties are serving the overarching objectives for the Province as defined by the Executive Council, by not only providing accommodation for line departments such as Health and Education, but also in itself by providing development opportunities such as creating jobs, promoting empowerment and by building capacity.

The challenge is to optimise the latter without compromising the provision of accommodation. This means that properties must in one dimension form part of the supply chain of resources supporting the rendering of public services and in the other dimension be part of the value chain designed to serve the overarching objectives directly.

### 3 WESTERN CAPE PROPERTY COMMITTEE

The Property Committee is appointed by the Minister who exercises discretion as to the extent and content of strategic advice requested from it. The Committee consists of members from the business and public sectors with property-related expertise. The Committee also provides operational advice to the Branch: Public Works.

### 4 THE BRANCH: PUBLIC WORKS

All the Provincial Departments are directly responsible for the delivery of services to society and they need appropriate accommodation, equipment and stock to do so. In this regard the property services function provides a resource supply service in support of these functions.

The mandate of the Department of Transport and Public Works is *inter alia* to ensure that, in responding to the massive development challenges, provincial property contributes substantially not only by providing and maintaining the required accommodation for health, education, social and other services, but especially by creating opportunities for empowerment, capacity building and self-enhancement of living standards.

An integrated property services programme allows for specialisation, creativity and innovation, as well as for inclusiveness and sustainability in the planning of such activities across functional boundaries. A concerted, focused and continuous analysis of, and research into how the asset management value chain and supply chain processes can best serve socio-economic needs directly should form the basis of property-related decisions.

It is, however, not argued that the full range of activities in the policy hierarchy of property services should be concentrated in the Branch: Public Works. The policy and strategic as well as programme-level activities are coordinated and integrated by the Branch. The operational-level activities regarding property management and facilities management are managed by the Branch, but with consideration of the capacity of departments and institutions to generate their own funds and utilise these for development, services and maintenance.

Day-to-day maintenance work could remain with users where capacity exists, although it must be acknowledged that such maintenance work also has the ability to provide job opportunities for local entrepreneurs. A community-based public works programme may very well include day-to-day maintenance of Provincial properties.

From the description it is clear that performance of the Branch: Public Works must be related to the extent to which the property portfolio serves the overarching provincial objectives. This represents a strategic focus. But the performance of the portfolio as a whole must also be related to measuring the costs of the portfolio and benefits it provides to programme delivery. Finally, on the operational level, performance measurement of individual properties must establish a link between programme activities and the assets utilised for this. This aspect will be explained in Chapter 6.

The Head of the Department of Transport and Public Works is the accounting officer who is accountable as Property Steward in terms of Sections 38 to 43 of the **Public Finance Management Act** (1999). The accounting officer delegates property services to the Head of the Branch: Public Works in terms of Section 44 of the **Public Finance Management Act**. As such, the Head of the Branch is the Asset Manager of the Province.

## 5 ASSET MANAGEMENT

In the context of Provincial Government, asset management is concerned with property investments – primarily to fulfil the Provincial functions aimed at realising the overarching objectives for the Province and in adherence to Schedules 4 and 5 of the Constitution (1996) – in such a manner that the best social and economic returns for the Province are ensured.

Responsibilities revolve around the quantitative performance of assets. Activities include the formulation and implementation of strategy, managing transactions, financing, accounting, benchmarking, performance reporting and risk management.

Asset management, therefore, is a distinct profession which integrates the other functions. It represents a strategic approach to property management, which is aimed at adding value to

and extracting value from property during its entire lifecycle, starting with acquisition and ending at disposal. In between these two points the changing market opportunities and economic factors are related to physical and financial structuring requirements in order to ensure highest and best usage.

## 6 PROPERTY MANAGEMENT

Property management is concerned with the management and administration of properties. The responsibilities revolve around the qualitative performance of property, ensuring the most efficient, effective and economic utilisation of space, and the timely and effective reporting and accounting of income and expenditure.

## 7 FACILITIES MANAGEMENT

Facilities management is concerned with the maintenance, operation and development of the physical, environmental and technological infrastructure of properties. It encompasses a wide range of activities by several role players with the same goal of maintaining and improving fixed property. Activities include provision and maintenance of infrastructure, life-cycle planning, technical planning, as well as mechanical and physical systems planning.

## 8 PROPERTY USERS

The Provincial Departments and their service providers, as well as service providers of other spheres of government, are users of property. Other users include outsiders leasing Provincial property. Although the Branch: Public Works and all Provincial property users together form the administrative authority of the Provincial Government of the Western Cape, the interface between the Branch and users of property requires a professional relationship similar to that between asset managers and property users in the private sector.

**Items 9 to 12 represent the interface rights and responsibilities between the Branch: Public Works and Users:**

## 9 ACCOMMODATION NEEDS

Accommodation refers all fixed property, being land or land and improvements (buildings), required by Western Cape Provincial Government User Departments and other users for the execution of their core business. The various accommodation needs far outstrip supply and therefore provision is prioritised by means of a deliberative model and scheduled in a Strategic Provincial Accommodation and Infrastructure Plan (SPAIP).

The SPAIP is compiled and continuously upgraded from the inputs of User Departments, who derive their accommodation requirements from their strategic objectives. New accommodation needs can be satisfied by means of the reallocation of other property in the portfolio either by:

- leasing property;
- buying property; or
- buying and developing new property.

The appropriate option is determined by the duration requirement, the location, price, supply, functionality and procurement policy.

For the property user there is another option, namely to follow the non-asset route whereby the entire service that would have been accommodated and the provision of its accommodation are either outsourced or redesigned to be less accommodation-dependent.

## 10 USER RIGHTS

The rights and obligations for both the user and the Branch: Public Works regarding the use of a property are laid down in a User Rights Agreement, which is a contractual agreement between the Branch and the User Department.

## 11 USERS PAY

The provision and maintenance of property is costly and must therefore be utilised optimally. The application of a users -pay principle means that optimal use is ensured, because payment is linked to units of utilisation, and unutilised or under-utilised property will rather be returned than paid for.

In the private sector it is common for a user charge to be a market-related charge which will be determined by the capital redemption and operating costs related to the portfolio plus a profit margin as determined by market conditions. However, in the not-for-profit public sector the user or internal charge is based on recovery of the full costs of the portfolio.

In a fully implemented application of the user-pays principle, the Branch: Public Works may for instance not receive a budget allocation, but will have to recover its full property service costs from users. The users on the other hand may receive a dedicated budget allocation for paying user charges, but only to the set norms and standards.

12      SERVICE LEVELS

Apart from units of utilisation (based upon area usage, i.e. square metres), service levels are also cost drivers in property services. A Service Level Agreement refers to the agreement between User Departments and the Branch: Public Works and/or a Service Provider to provide certain specified services and define the rights and obligations of both parties regarding all the properties to be utilised by that User Department.

**4.6 CONCLUSIONS**

The internal framework within which the management of the property portfolio will operate, is determined by the Vision and Mission of the Branch: Public Works, the strategic imperatives, certain identified critical success factors and appropriate institutional arrangements as set out in this chapter. In Chapter 5 the functioning of the Branch: Public Works is set out in more detail.

## **CHAPTER 5: FUNCTIONING OF THE BRANCH: PUBLIC WORKS**

### **5.1 INTRODUCTION**

Chapters 2 and 3 provide an explanation of the task environment of the Branch: Public Works by specifically describing and illustrating that property services should promote socio-economic development, adhere to the demands of the broader policy environment and conform to good governance principles. Chapter 4 elaborates on the internal environment prerequisites with reference to the Branch: Public Works vision and mission, the strategic imperatives, critical success factors and institutional arrangements.

The previous chapters therefore provided a description of task and internal environment prerequisites, while this chapter serves the purpose of prescribing the functioning of the Branch: Public Works in adherence to the set prerequisites. This will be done with reference to the three functions of:

- Asset management;
- Property management; and
- Facilities management.

### **5.2 ASSET MANAGEMENT**

Asset management represents the strategic management activities in a property environment. It was therefore stated in Section 4.5, Item 5 that asset management should be concerned with property investment, primarily to fulfil the functions aimed at realising the overarching objectives of the Province. Asset management however, not only delivers a product or result, but entails a process as well. The Departmental mission statement as quoted in Section 4.2 therefore includes reference to “*socially just, developmental and empowering processes, to improve the quality of life for all*”.

From a strategic point of view, it was recognised in Section 2.3 that certain areas suffer from various manifestations of asset poverty. This is not only true for provincial accommodation, but also for national functions such as policing executed in the province. Property investment to satisfy accommodation needs will therefore be considered in an integrated manner, i.e. including all spheres of government, where applicable. In addition, the provincial property portfolio must be utilised optimally. In the following subsections, asset management is first discussed in relation to

empowerment requirements. Secondly, the asset management processes and results necessary to serve developmental requirements are determined. Thirdly, policy directives for strategic planning of accommodation in the interest of a better quality of life for all members of society are provided. Fourthly, socially just and accountable disposal of surplus property is explained.

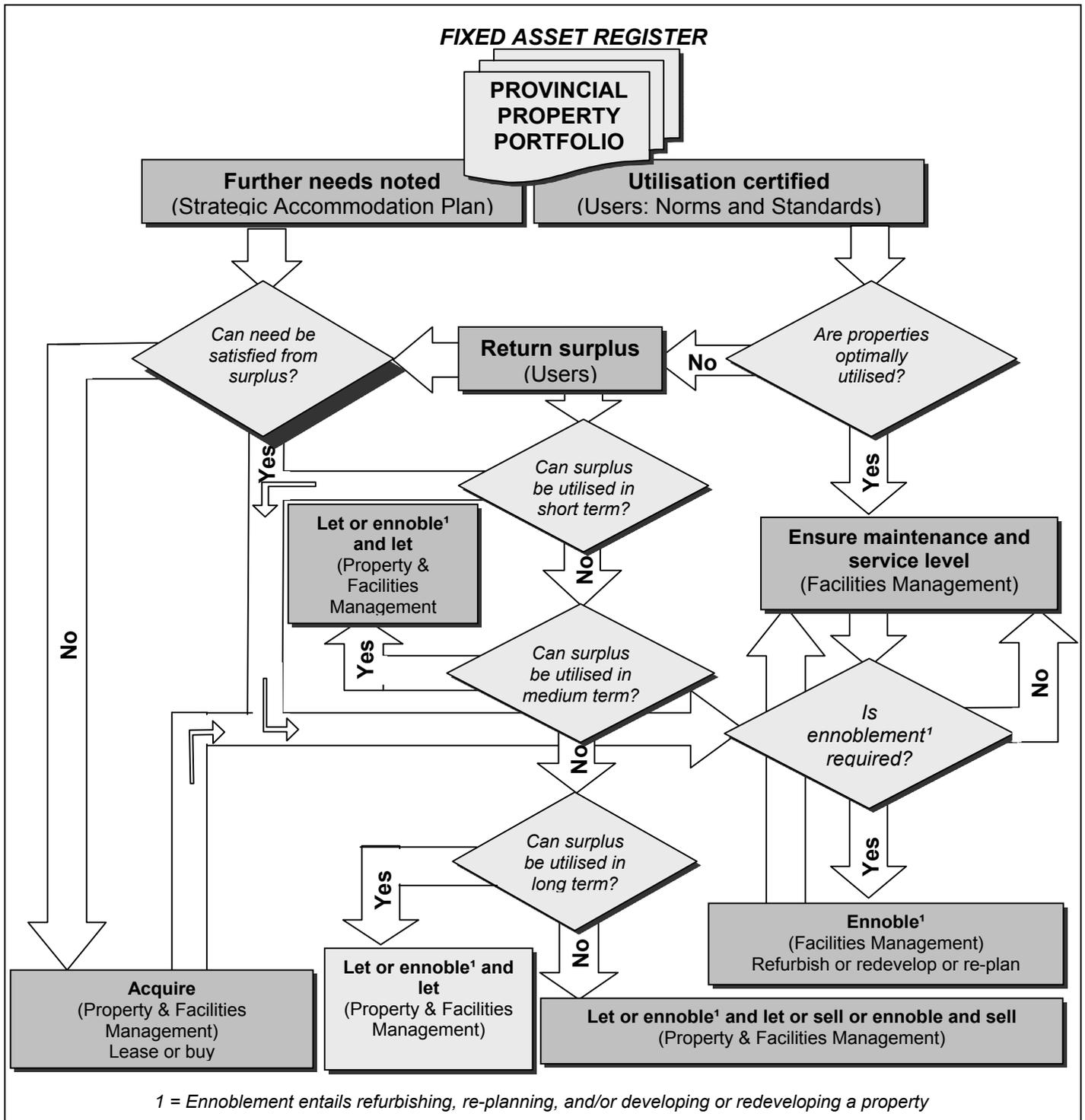
#### 5.2.1 Asset management in adherence to empowerment requirements

It was stated in Chapter 2 that access to opportunities, access to resources and competence are three dimensions of empowerment. In order to serve these dimensions all asset management activities must, to the extent applicable to each, comply with the following:

- A pre-qualification and termination system and list of admitted service providers must be maintained. Service providers qualifying for recognition as participants in the empowerment strategy must be properly constituted as such. In particular, service providers wishing to qualify must fulfil the criteria in the BEE policy for a “black company”, “black empowerment company”, “black-influenced company” or “engendered company”;
- The Preference Points System as set out in the Departmental Preferential Procurement Implementation Plan (PPIP) and general conditions relating to the system must be applied to all outsourcing activities and – where applicable – to disposal of properties as well;
- Where the required service is of a magnitude or level of complexity which none of the listed service providers can deal with individually, the particular service must be structured so as to give credit for joint ventures between service providers that have such capacity and others qualifying for recognition;
- Appointment of consultants for property-related services must be done according to a roster that would promote empowerment of historically disadvantaged individuals and firms. Qualification as such before placement on the roster would also entail a pre-qualification process. While on the roster as a consultant of preference, close monitoring of progress and eventual termination of preferential status should be ensured;
- Packaging and structuring of contracts to facilitate the engagement of targeted groups and using performance specifications that define socio-economic deliverables should be undertaken where development and disposal packages are compiled;
- A departmental empowerment officer must be assigned the task of ensuring that administrative processes and preconditions do not create impediments for listed service

providers and of giving guidance to such service providers in adhering to service requirements as well as corporate governance principles.

5.2.2 Asset management processes and results to serve developmental requirements



**FIGURE 5: ASSET MANAGEMENT FLOW CHART**

Figure 5 provides a flow chart of asset management-related activities by the Branch: Public Works. It shows that the Provincial property portfolio must be managed strategically to ensure that the accommodation needs of users of properties are satisfied optimally, but simultaneously that properties are utilised optimally, either to be:

- occupied by users according to the accommodation norms and standards in order to render services in the functional areas of concurrent national and provincial legislative competence, and in the functional areas of exclusive provincial legislative competence;
- developed, in conjunction with other role players, as productive assets that would provide or promote business opportunities;
- integrated with assets of other Provincial role players and ennobled in such a manner that it contributes to infrastructure improvement of Province-wide or national significance; or
- temporarily or permanently disposed of in order to generate income from which further satisfaction of accommodation needs or other socio-economic development endeavours can be funded.

As a first step excess property in close proximity to residential communities that have potential for such applications needs to be identified and subjected to a process of consultation with communities and other role players as regards further utilisation. A further step would be to acquire properties for the purpose of being developed as productive assets to promote business opportunities, especially for the historically disadvantaged and poor.

### 5.2.3 Strategic planning of accommodation in the interest of a better quality of life for all members of society

Accommodation needs can be met by utilising existing properties, purchasing and/or constructing, or leasing new properties, or acquiring suitable property through exchange. The following policy directives for the provision of accommodation are to be adhered to:

- The prioritisation of accommodation is scheduled in a Strategic Provincial Accommodation and Infrastructure Plan (SPAIP). This Plan is compiled from the inputs of User Departments, who derive their accommodation requirements from their strategic objectives. The prioritisation of accommodation needs is done by means of an approved deliberative model;
- The Service Level Agreement between each User Department and the Branch: Public Works and approved norms and standards provide further input towards determining the accommodation requirements;

- Multi-disciplinary work groups – containing property and user expertise – facilitate research on the most appropriate satisfaction of these requirements. The Branch: Public Works undertakes project management of this process;
- The Branch: Public Works identifies suitable property that fulfils the requirements. The approach is first to search for suitable property amongst its own surplus properties in the Province. If this is unsuccessful, this search is continued in the property market;
- Provision and acquisition of accommodation are undertaken and budgeted for by the Branch: Public Works according to the approved SPAIP. Acquisition can either be by means of:
  - purchasing;
  - long-term leasing;
  - short-term leasing;
  - donations;
  - exchange;
- Procurement by buying, exchange or leasing must be in accordance with the relevant procurement policy and with consideration of the duration requirement of the accommodation in question, location, price, market supply and functionality of available property. Where short-term leasing is undertaken, this must be done with the necessary assurance that discretion is exercised in negotiating the most appropriate deal by taking into consideration the duration, location, price, market supply and functionality of available property;
- Ownership of all property is in the name of the Western Cape Provincial Government, whilst the details of the users of the specific property are entered into the central Fixed Asset Property Register, which is maintained and controlled by the Branch: Public Works. This Register will contain information about all fixed properties (land and improvements) as well as servitudes in favour of the Provincial Government, bequests and properties reverting back to the Province, as well as properties being utilised by the Provincial Government. The Register will also indicate which user holds current rights. The Register will furthermore indicate the zoning of the particular property;
- User charges (when introduced) based on the full extent of accommodation in a property are levied by the Branch: Public Works and paid for by users from their budget allocations,

which in turn are allocated by Treasury to cover the user charge amounts within the accommodation norms and standards. Where accommodation exceeds the norms and standards, the difference between full user charges and budget allocations are to be funded by users unless otherwise motivated by the User Department and the motivation accepted by the Branch: Public Works, or so determined by the Branch;

- Each and every property currently utilised must be reconsidered annually to confirm full utilisation in terms of the set norms and standards. Property in excess to the applicable norms and standards must either be returned to the Branch: Public Works for utilisation, or alternatively, **users will pay market-related user charges for this excess property from their own funds**, unless otherwise motivated by the User Department and the motivation accepted by the Branch: Public Works, or unless so determined by the Branch;
- **Funds generated from disposal of such excess will be utilised for development and maintenance of properties for that particular User Department;**
- Property acquired for use in the medium and long term is held and managed by the Branch: Public Works and can – at the discretion of the Branch - be utilised for other purposes until it is needed for the earmarked use. The short-term usage will be restricted by way of a development clause;
- The payment of consumer tariffs (such as water and electricity), is the responsibility of the user;
- Ennoblement by means of refurbishing, re-planning and/or redeveloping a property to adhere to the requirements of the user is done in terms of the relevant norms and standards;
- Ennoblement by means of refurbishing, re-planning and/or redeveloping a property for use as productive asset must be done taking into consideration highest and best usage.

#### 5.2.4 Socially just and accountable disposal of surplus property

Property must be released for the maximum benefit of the people of the Western Cape and should not be frittered away to satisfy short-term expediencies. Thus Provincial property should not be released only for financial profit, but should also be released where it can benefit the people of the Province.

The primary rationale behind property services activities should be to use property as a resource to promote specific, targeted socio-economic and economic objectives. These are primarily achieved

through the provision of land and buildings for provincial departments and other service providers to fulfil their core functions.

In terms of the **Western Cape Land Administration Act** (1998), all Provincial property must be assessed once a year to determine whether it is being optimally utilised or not. The Branch: Public Works is accordingly responsible for an ongoing audit of all Provincial property. In assessing the annual usage and financial viability of the property, a valuation or appraisal unit must be established by the Branch. This unit should be developed to establish the extent of utilisation and financial performance, but also to appraise property for purchase, exchange, expropriation and other property appraisal functions.

The strategy for assessment and release of property must be based on the following categories:

- **Vital:** Properties which should not be disposed of and whose users/tenants cannot be accommodated elsewhere;
- **Necessary:** Properties where users/tenants can be accommodated elsewhere, or where needs may change over time;
- **Useful:** Properties which are not totally necessary for the core business of the User Department; and
- **Surplus:** Properties that must be reconsidered in terms of highest and best usage.

One of the ingredients for ensuring socio-economic development and economic growth in the Province is to encourage large-scale development of undeveloped or under-utilised property, whether for community facilities, job-creating commercial and industrial activity or land redistribution. However, the sudden release of Provincial property will have a substantial impact on the urban land market. Accordingly, the process must be handled with care and be professionally planned.

Disposal and acquisition of Provincial property must be part of a strategy whereby the Provincial Property Portfolio is protected and its value increased. On the one hand, the process must be guided by the realisation that Provincial property is part of a heritage that needs to be safe guarded for future generations. On the other hand, where disposal and acquisition can help undo negative legacies and correct socio-economic deficiencies, it should be done for that purpose. Disposal of superfluous properties may also reduce the maintenance burden and make available additional funds whereby the value of the portfolio is increased through improvements and new acquisitions. Redundant properties required in the long-term or considered to be of strategic value, will not be disposed of permanently.

The main objective of disposal is therefore to strategically use Provincial properties as a catalyst for development, to drive transformation and instil confidence, especially in under-developed areas, to redress the imbalances of the past and to promote economic activity. For this reason, disposal may be preceded by ennoblement if it will increase the disposal value, if it is otherwise beneficial for the Province or community, and if it will serve empowerment objectives. Further operational provisions for disposal and ennoblement are provided in the next section.

### **5.3 PROPERTY MANAGEMENT**

Asset management is concerned with the strategic aspects of property services, i.e. it has a top-down perspective. Property management, in turn, depends on asset management input and guidance in order to deal with individual property utilisation planning as well as operational management and administration of individual properties, as indicated in Figure 5. Simultaneously, however, property management provides a bottom-up process for informing asset management.

Through property management, the Branch: Public Works must ensure that each property adheres to the required standards, that space is utilised efficiently, effectively and economically, that agreements between the Branch and users, lessors and other service providers are entered into and adhered to, and that revenues are collected and financial obligations adhered to timeously. Accounting, internal control and facilities risk management are also the functions of property management. To carry out these responsibilities, the following policy requirements for property utilisation and ennoblement planning and operational management must be complied with:

#### **5.3.1 Property utilisation and ennoblement planning**

Property utilisation and ennoblement planning are concerned with the acquisition, desired ennoblement and disposal functions relating to individual properties. Acquisition and disposal of properties are to be executed through processes described in more detail in relevant operational policy and procedure manuals, while ennoblement is planned to ensure highest and best usage, to increase the economic worth of the Provincial property portfolio, or to maximise social and economic returns when disposal is considered.

The operational policy and procedure manual for acquisition of property must set out the process to be followed in identification, decision making, pre-acquisition and acquisition of property.

Ennoblement planning entails one or more of the following activities, but the physical execution is done through facilities management:

- Refurbishing, where a property is redecorated, service systems and appliances are removed or upgraded and, where applicable, refurbishing is done;

- Developing or redeveloping, where structures are erected or structural changes are made; and
- Re-planning, where the initial zoning and purpose of the property are changed after proper public participation processes as prescribed in the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985).

Where disposal is considered, it is necessary to ensure that this is done as expeditiously as possible in a consistent manner so as to ensure that maximum social and financial returns are generated through the sustainable disposal of such Provincial property.

Disposal of any property should therefore be managed and the disadvantages controlled through tight conditions, including statements of principle as to its usage from the Province and local authorities. Furthermore, ennoblement of a property – which would ensure highest and best usage – should be considered before the means of disposal are determined. The following policy directives must be adhered to in the disposal of Provincial property:

- Properties and parts of properties must be **assessed** in terms of whether they are vital, necessary, useful, or surplus to need;
- Long-term needs of the Province as expressed in the SPAIP must be taken into consideration during assessment;
- Annual assessment of properties and parts of properties must include consideration of **highest and best usage**, i.e. in terms of serving the strategic objectives of User Departments, and their potential for revenue generation, either through being applied by a User Department or through disposal;
- The generation of revenue through disposal of property must be managed in a manner that will **ensure maximum sustainable benefit and minimum disadvantage** to the Province and communities. Conditions attached to disposal, statements of principle as to usage, as well as ennoblement must therefore be decided prior to disposal;
- Evaluation criteria for disposal via competitive processes must include **weighting** to allow **historically disadvantaged** groups and individuals to compete equitably;
- A competitive process is likely to generate the greatest direct return on the disposal of property. However, care should be taken that such processes should not perpetuate past inequalities by demanding adherence to requirements that historically disadvantaged individuals or groups cannot comply with.

- Disposal may be executed by one of the following processes after public notice is given through the media or other appropriate means to promote transparency. All applications are evaluated against relevant disposal criteria:
  - **Public tendering** will be used where the Provincial Government wants to impose explicit conditions and apply special criteria to specific property transactions;
  - **Public auctions** will be used where a quick and simple process for disposal of property is required;
  - **Calls for proposals** will be used where a wide range of professional ideas and experience is required;
- Operational policy and procedure manuals must provide for detail regarding the selection of the means of disposal;
- Disposal of property include selling, long-term letting or short-term letting. The appropriate option must be selected by considering the medium and long-term accommodation needs of users. Operational policy and procedure manuals must provide further detail on the selection and application of the options:
  - Sale of property with no further medium or long-term potential use must follow **competitive processes** through the most transparent mechanisms available. Before a property is sold, the potential to increase return with ennoblement must be explored and a decision taken whether to sell as it stands, or to ennoble through refurbishing, re-planning, and/or developing/redeveloping first;
  - Long-term letting entails a contractual arrangement whereby property and improvements will revert back to the Province after a period exceeding 3 year. The nature of the intended future Provincial use will determine the period for which this option precludes permanent alienation of capital assets. It is also appropriate where Provincial property is earmarked for other purposes in future. Before a property is let, the potential to increase return with ennoblement must be explored and a decision taken whether to let as it stands, or to ennoble through refurbishing, replanning, and/or developing/redeveloping first;
  - Short-term letting, i.e. less than three years, is often not suitable for application of competitive processes such as those described above. The nature of properties, especially residential, requires a different approach to ensure that transparency prevails, because the execution of a competitive process may eventually be more costly than the benefit derived from competition. Before a property is let, the

potential to increase return with ennoblement must be explored and a decision taken whether to let as it stands, or to ennoble through refurbishing, replanning, and/or redeveloping first. The process of short-term letting would usually entail the advertising or referral of available property to real estate brokers for letting;

- A Registered Professional Valuer or other conclusive source must be engaged to determine market factors, e.g. rental being acquired for similar properties, lease escalation percentages and other incentives offered to prospective tenants in order to conclude leases. Letting to existing or new tenants should be priced according to these valuations. The emphasis in short-term letting is therefore on ensuring a suitable, transparent process, linked to market principles rather than a competitive process, which requires more time to execute.

### 5.3.2 Operational management

Operational management is concerned with the management of each individual property, including unimproved properties, between its acquisition and disposal. Each property must be managed by means of a management plan which establishes the objectives to be achieved with the property and determines the means by which such objectives will be attained. It must set out the context, that is, the background and strategic reason for the property, information about the property and the objectives for the property. The content of the management plan must deal with the following aspects:

- Regional and neighbourhood analysis, including environmental risks and opportunities;
- Zoning, conditions of rezoning approval and title conditions;
- Property analysis, with details on the physical condition, the management level and the financial condition, as well as the property risks;
- Service analysis, with details on the scheduled life cycle of physical renovations and ennoblement, property support staff requirements and financial information derived from discounted cash-flow analysis;
- Financing details, i.e. whether the financing is done internally from the department's own sources, or externally, from financial sources;
- Valuation, with information on the present and future market value;

- Housekeeping rules for users regarding the safe use of the property, including matters such as switching-off of lights, closing of windows and keeping doors closed in air-conditioned areas;
- Particular characteristics of the property and its utilisation that should be considered in a strategy to generate user and public “ownership”, sense of responsibility and pride.

Detailed operational procedures must describe property “take-on’s” and management plans. The management plan provides a reference point for measuring property performance and should be reviewed and updated regularly with the involvement of all parties affected. The activities to be performed in adherence to the management plan and SPAIP include general administration regarding the property, revenue collection or payment, leasing and letting responsibilities, accounting services, maintenance administration and risk management. These activities require adherence to the financial and administrative regulations, but also a degree of discretion to negotiate or otherwise ensure that economy, efficiency, effectiveness and equity are attained and maintained as far as each property is concerned.

Each property must be allocated to the user of the property with a User Rights Agreement in the case of User Departments and a lease agreement in the case of other users. The agreement must address user charges or rental; duration of agreement; property description; service and operational charges; alterations and additions; agreement renewal; agreement termination; business to be conducted; maintenance and service; subletting; cession; and pledge.

#### **5.4 FACILITIES MANAGEMENT**

Once again as shown by Figure 5, the strategic guidance provided by asset management is put into operation through facilities management to maintain, operate and develop properties. The services provided by facilities management include maintaining a computerised facilities management system, maintenance of mechanical, electrical, lifts, uninterrupted power supply, fire and security and telephone support services, building fabric maintenance, water-treatment monitoring, drainage, external works and grounds maintenance. It further includes management support services for space planning, tenant installations, data cabling, partitioning, furniture procurement and installation, energy management, security, cleaning and project management. Facilities Management has the following categories:

- Day-to-day or corrective maintenance;
- Scheduled or preventative maintenance;
- Upgrading or ennoblement;
- New construction or CAPEX.

The following policy directives for facilities management must be adhered to:

- Day-to-day or corrective maintenance is of critical importance for continued and unrestricted use of the property in the interest of serving its objectives. It also provides a special focus for customer relationship management (CRM), because trust in the competence of the facilities management team starts with its adherence to the levels and cycle times as determined in the Service Level Agreement and User Rights Agreement. The Service Level Agreement with each User Department must therefore set out the general agreed levels and expected reaction and cycle times of different categories of day-to-day maintenance, while the User Rights Agreement must provide that detail regarding individual properties. It is therefore also accepted that asymmetry and flexibility with regards to the nature of such maintenance for the User Departments and for the various properties to be maintained will prevail;
- Scheduled or preventative maintenance of each property must be done according to the User Rights Agreement, the SPAIP, set norms and standards and a maintenance framework. The maintenance framework is compiled from a building maintenance audit programme (BMAP), which in turn is informed by the consolidated scheduled life-cycle maintenance in the management plans of all properties as referred to in Subsection 5.3.2;
- Although facilities management does not carry the responsibility for adherence to the **Occupational Health and Safety Act**, 1993 (Act 85 of 1993, as amended by 181 of 1993 and 66 of 1995), regarding the use of a property, maintenance must be prioritised to ensure that Provincial properties adhere to the requirements of the Act;
- Upgrading or ennoblement must also be done by taking into consideration the User Rights Agreement, the SPAIP, set norms and standards, the maintenance framework as referred to in the previous item, as well as other strategic considerations emanating from environmental changes. All work must adhere to the legislative provisions and other policies applicable to the built environment;
- New construction or CAPEX is done according to the SPAIP, applicable norms and standards and legislation and other policies applicable to the built environment;
- Where external service providers are appointed for the planning, execution or management of facilities, this must be done in accordance with the requirements of the Departmental Preferential Procurement Implementation Plan and Subsection 5.2.1.

## 5.5 CONCLUSIONS

This chapter provides specific policy directives regarding the functioning of the Branch: Public Works in respect of asset, property and facilities management. It determined how asset management must be undertaken to adhere to empowerment requirements. It also described the processes and results of asset management to serve developmental needs, strategic planning of client accommodation in the interest of a better quality of life for all members of society, and socially just and accountable disposal of surplus property. It also prescribed the activities of property management and facilities management. In the next chapter the resource implications and performance measurement requirements to fulfil these functions are described.

# **CHAPTER 6: RESOURCE IMPLICATIONS AND PERFORMANCE MEASUREMENT**

## **6.1 INTRODUCTION**

The functioning of the Branch: Public Works as prescribed in Chapter 5 requires utilisation of information, people – both in-house and external service providers - and finances. These resources must be utilised optimally in order to meet the User Department demands, especially given the developmental challenges and accompanying backlogs in appropriate accommodation and empowerment opportunities offered by the delivery of property services.

The purpose of this chapter is therefore, firstly, to set out the policies relating to generation and utilisation of information, people and financial resources, and secondly, to describe performance measurement of the delivery of property services in adherence to the policy.

## **6.2 INFORMATION AND COMMUNICATION MANAGEMENT**

Four categories of information needs can be highlighted. The first category of information needs relates to existing properties, their active management and maintenance, information about further accommodation property requirements, and the communication of the relevant information to all stakeholders which has been at the core of policy provisions in Chapter 5.

Mention has been made of a Strategic Provincial Accommodation and Infrastructure Plan (SPAIP), Service Level Agreement, set norms and standards, a Property Asset Register, User Rights Agreements, management plans and maintenance framework, all of which require active and continuous information and communication management in order to remain relevant.

A particularly dynamic element that needs to be added to the above list in order to cope with the demands of day-to-day maintenance is a help desk. Appropriate information and communication technology (ICT) management systems must be maintained in order to ensure that all of the above-mentioned elements relating to properties are constantly updated.

The second category of information needs relates to the integration of information on properties managed by the Branch: Public Works with physical infrastructure management and development services provided by other users, such as provincial departments, municipalities and national departments, as well as other institutions providing highly specialised services.

The third category of information relates to service providers. The procurement system must allow the invitation and selection of appropriate service providers and adhere to the empowerment policy instructions as provided in Subsection 5.2.1, which also refer to a pre-qualification and termination system and list of admitted service providers.

The fourth category of information and its communication relates to project management of ennoblement processes. The purpose is to ensure that products are provided on time, according to specification and within cost norms.

The ICT systems requirements supporting the above four categories must be provided for in a master systems plan. This plan will:

- Serve as reference for annually assessing the status of current and required systems within the Branch: Public Works;
- Ensure that technology is aligned to and reconciled with the broader Provincial Government strategy and the objectives of the Branch and integrated with other systems with which interdependence is essential;
- Be used to prioritise and budget for ICT development and maintenance.

### **6.3 PERSONNEL MANAGEMENT**

Personnel of the Branch: Public Works need to have very particular skills to execute all the specialised activities required to adhere to this policy. For this reason, apart from adherence to the relevant policy prescriptions on appointment and utilisation and evaluation of personnel, knowledge management must receive special attention.

Knowledge management entails generating explicit property knowledge through knowledge-sharing and ensuring that personnel are utilised to maximum effect. It requires deliberate and purposeful knowledge management skills. The results of knowledge management are the prevention of knowledge loss, improved decision-making, adaptability and flexibility, competitiveness, product enhancement, enhanced customer relationships, leveraging of human capital and organisational learning.

A knowledge management framework for the Branch: Public Works must be developed and maintained. The development of such a framework must include:

- knowledge classification;

- knowledge assessment;
- framework design;
- framework implementation; and
- monitoring.

A knowledge champion must be assigned the task of driving the implementation and management of such a framework.

#### **6.4 OUTSOURCING: THE USE OF CONSULTANTS, CONTRACTORS AND OTHER SERVICE PROVIDERS**

It was accepted that the Branch: Public Works will make provision for a partially outsourced functioning, as explained in Section 4.5 and illustrated by Figure 4. Such outsourcing is considered where scarce or expensive expertise and technology are required for a relatively short duration, where it will better serve socio-economic objectives than in-house delivery could (Chapter 2), and where risks cannot be adequately dealt with internally. In all forms of outsourcing, whether it is for consultation services, contracting services, or partnership arrangements, the empowerment requirements as set out in Subsection 5.2.1 and Department of Transport and Public Works Preferential Procurement Implementation Plan (PPIP) must be adhered to.

**Consultants** may be appointed:

- Where an independent and unbiased opinion is required;
- Where current skills or capacity need to be supplemented;
- Where conflict resolution is required;
- To provide training in order to develop in-house capacity;
- To facilitate the process of implementation of new policies;
- Where it is more cost effective than using in-house capacity; and
- Where complex issue analysis is required.

Care should be taken not to use consultants where in-house capacity exists, because this may be perceived as an act of distrust in such capacity. Consultants can, however, provide expertise in developing in-house skills as required. This will enhance knowledge management and create a foundation for further self-development and career opportunities.

The terms of reference (ToR) must provide a set of very explicit instructions about what the consultant must do and when the work is considered to be completed.

**Partnerships** with private entrepreneurs, other public entities or community organisations can greatly enhance property service delivery, both from a social and an economic perspective. Such partnerships must, however, be entered into in accordance with Chapter 16 of the National Treasury Regulations (2002) and must be preceded by a comprehensive whole-life investment appraisal and comprehensive stakeholder consultation. The appointment must be based on competitive procurement processes and clearly defined contractual arrangements.

## **6.5 REVENUE AND EXPENDITURE MANAGEMENT**

This policy is *inter alia* based on the premise that the provision of accommodation is in the supply chain of Provincial service delivery by functional departments. In line with the provisions of the **Public Finance Management Act** (1999), National Treasury Regulations forming part of the Act, and National Treasury Guidelines, it is accepted that budgeting of all services must be done with a full costing of all direct and indirect costs.

User Departments must therefore include the cost of the property services provided to them in the costing and budgeting of their existing and future service delivery. One way of achieving this, and simultaneously of ensuring that accommodation is used optimally and that the Branch: Public Works provides a professional and cost-effective service, is through the introduction of a system whereby User Departments are charged for property services by means of internal or user charges. In order to benefit from such an arrangement, actual accommodation needs of User Departments must be established in consultation with the Branch: Public Works and minimum but functional accommodation requirements determined.

As user charges have a unit cost basis, it means that it is beneficial for a User Department to minimise space and land utilisation, especially since norms and standards determine their budgetary allocation for property services from the Provincial Treasury. Space and land needs exceeding the set norms and standards must be funded from the User Departments' own sources.

The Branch: Public Works is responsible for ensuring provision of property services to customer satisfaction at "affordable" prices. User charges as the only source of revenue of the Branch:

Public Works can be benchmarked against user charges of other similar service providers in the public and private sector. As the only source of revenue, user charges should cover the following costs of the Branch:

- Direct and indirect operating expenditure of the Branch: Public Works;
- Capital for property acquisition and ennoblement, or loan redemption, i.e. servicing external or internal loans for funding acquisitions and ennoblement where applicable;
- Leasing minus letting;
- Property maintenance to Service Level Agreement and User Rights Agreement standards;
- Property-specific operating expenses;
- Cost of holding unutilised properties;
- Contribution to a capital fund as source for internal loans.

When fully applied, the equitable distribution of the total budget of the Branch: Public Works amongst individual properties is done by determining a rate whereby the budget of the Branch is taken as a percentage of the sum total of all property values. A composite rating system will determine the user charge for each utilised unit of property. Land is valued separately from improvements and charged at a uniform rate, while improvements of properties within the norms are classified and charged at varying rates to compensate for utilisation of their own funds by institutions and for specialised buildings requiring high property service costs. The latter system is advisable, because it allows for equity by means of the following:

- The market value of the unimproved land will ensure that land in poor neighbourhoods, which is of lower value because of its size and location, carries a much smaller user charge burden than those in “upmarket” areas. It will also be beneficial to return surplus land in order to reduce the user charge burden and prevent the payment of property-specific operating expenses on land over and above the set norms and standards;
- The value of improvements that fall within the Provincial obligation to provide and maintain - because these improvements adhere to set norms and standards, but which have been financed from the own funds of User Departments - can be subtracted from the improvement part of the user charge to compensate such Departments for their contribution. “Luxuries” developed from their own funds outside the set norms and

standards will, however, not be maintained by the Branch: Public Works and individual institutions will have to take responsibility for all additional operating costs relating to such improvements.

The Accounting Officer of the Department of Transport and Public Works and the Head of the Branch: Public Works are responsible for sound financial management, including the collection of user charge payments and property risk management.

## 6.6 PERFORMANCE MEASUREMENT

Treasury directives require that performance evaluation and control must be linked to the strategic planning processes whereby Key Measurable Objectives (KMOs) are identified and interpreted in terms of cost, quantity, quality and timeline measures. Added to that, corporate governance principles as discussed in Section 3.3 *inter alia* referred to a *balanced scorecard* performance measurement approach. Such an approach entails the systematic interpretation of the Vision and Mission in terms of financial performance, customer service, internal process and future learning perspectives and the identification of measurable indicators for these perspectives. Elements of this approach are to be found in National Treasury guidelines on performance measurement, where reference is made to the development of three-year strategic plans with four categories of strategic goals, namely service delivery, management/organisation, financial management and training and learning (National Treasury, 2003).

From the above it is clear that strategic performance of the Branch: Public Works must be related to the extent to which property services are related to and in support of the overarching Provincial objectives. The extent to which the Strategic Provincial and Infrastructure Plan is executed provides the most decisive performance measure in this regard. But the performance of the Branch as a whole must also be related to a focus whereby performance is measured in terms of cost of the service to each User Department and the degree of adherence to the Service Level Agreement.

On the operational level performance evaluation must measure the performance of the Branch: Public Works and the performance of each property in response to the following questions:

- **Physical condition:** Is the property maintained in terms of the User Rights Agreement and were cycle times adhered to? Is there a maintenance backlog that requires attention?
- **Functionality:** How well suited is the property to the activities and functions it supports?

- **Utilisation:** Is the property being used as per agreement and/or in terms of highest and best usage? How intensively is the property used? Could it be used more productively by extending its working hours, or by accommodating additional functions?
- **Financial performance:** Are the operating costs for the property similar to those for other comparable properties? (Use benchmarking to establish this wherever possible.) Are the energy, cleaning and maintenance costs reasonable? Are user charges – if applied - covering the total operating costs of the asset (including the cost of capital)?

## 6.7 CONCLUSIONS

This chapter has related the functioning policy prescriptions of Chapter 5 to resource implications and performance measurement.

It has determined that the various categories of information needs and support of them by means of information and communication technology must be guided by a master systems plan that serves as a reference for annual assessment of the status and requirements of systems. Personnel management must not only adhere to the various relevant policies, but must be conducted according to a knowledge management framework to ensure that explicit property-related knowledge is created and retained. Outsourcing may be considered where scarce or expensive expertise and technology are required for a relatively short duration, where it will better serve socio-economic objectives than in-house delivery might, and where risks cannot be adequately dealt with internally. Revenue for the Branch: Public Works is generated by means of user charges collected from all User Departments.

Finally, it was determined that performance measurement must focus on the strategic and operational levels. It may be concluded that the entire policy for the management of Provincial property as prescribed in this White Paper has provided for a comprehensive set of instruments that basically require performance evaluation to answer the following three questions:

- To what extent are the socio-economic needs of society being served?
- To what extent are the property needs of User Departments being satisfied?
- At what cost to the Province is this service provided?

This chapter has completed the policy on the management of provincial property. The final chapter, which deals with the transformation process, sets out aspects relating to the implementation of the policy.

## CHAPTER 7: THE TRANSFORMATION PROCESS

### 7.1 INTRODUCTION

Chapter 7 should be considered as a temporary addition to the White Paper, because it will lose its relevance once all aspects of the White Paper have been introduced. It is however accepted that the implementation of the policy will occur in phases to allow for the amendment of legislation and regulations and for the installation and implementation of support systems.

The chapter deals, firstly, with the limitations of the White Paper and, secondly, with implementation steps, before final conclusions are drawn.

### 7.2 THE LIMITATIONS

The White Paper on the Management of Provincial Property has as its point of reference, the properties of the Provincial Government of the Western Cape as well as coordination with the property management activities of other role players in the Province. However, it cannot prescribe comprehensive infrastructure development in the Province and can therefore not by itself ensure that the legacies of the past relating to spatial division are addressed, or that a concerted public works drive will create large numbers of employment opportunities.

Further limitations are imposed by the reality of national legislation superseding the **Western Cape Land Administration Act** (1998) in the sense that the various provisions of the Act can only be introduced if no other law determines otherwise.

### 7.3 IMPLEMENTATION STEPS

The following steps towards full implementation must be taken:

1. Amend/replace the **Western Cape Land Administration Act** (1998) and/or the regulations in order to give effect to the requirements of this policy. Such amendments will include aspects relating to the role, composition and functioning of the Western Cape Property Committee, the responsibility of User Departments to regularly assess and annually report on their utilisation of land and buildings and accommodation norms and standards. This should be completed by 2004;

2. Perform a comprehensive marketing exercise for the Branch: Public Works to create awareness of the role and functioning of the Branch amongst all internal and external stakeholders. This should be completed by 2004;
3. Complete and introduce the pre-qualification and termination system and database of service providers by 2004;
4. Complete the first inclusive Strategic Provincial Accommodation and Infrastructure Plan and enter into Service Level Agreements with User Departments by 2004;
5. Set norms and standards for all accommodation types by 2004;
6. Complete User Rights Agreements for each property by 2005;
7. Enter into a process of exploring and resolving the impediments to and promoting dialogue about the implementation of user charges, and if viability is ensured, phasing in should commence by 2006, and be completed by 2008;
8. Complete the Master Systems Plan in 2003 and installation of the necessary e-Works ICT management systems by 2006;
9. Complete and introduce the knowledge management framework and assign a knowledge champion by 2004.

#### **7.4 FINAL CONCLUSIONS**

The White Paper has explained the policy context and prerequisites for the management of Provincial property in order to design an appropriate strategic and institutional framework, determine the functioning of the Branch: Public Works and identify resource implications and define performance measurement. The strongest emphasis in this policy is on the processes and products that will promote socio-economic development, but the functioning and resource implications also emphasise the need to perform to the satisfaction of customers. The pressure is on the Head and personnel of the Branch: Public Works to render a satisfactory and affordable service to User Departments.

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## ANNEXURE A: LEGISLATION IMPACTING ON THE MANAGEMENT OF PROVINCIAL PROPERTY

LEGISLATION	TYPE OF PROPERTY	WHO?	WHAT?
Interim Constitution of the Republic of South Africa, 1993 (Act 200 of 1993) (*)	State property	Department of Public Works Provinces Department of Land Affairs Local Authorities	Section 239 determines which sphere of government should become owner of state property in a province. The Act provides a mechanism to unlock disputes between "different owners". The Act is to be read with Item 28 (1) of Schedule 6 of the Constitution of 1996.
Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) (*)		"Competent authority" Registrar of Deeds	Item 28 (1) of Schedule 6 provides for the issuing of certificates of ownership once ownership has been established in terms of Section 239 of the Interim Constitution of 1993.
Constitution of the Western Cape, 1997 (Act 1 of 1998)	Provincial assets	Provincial Legislature	Provincial legislation has to provide for the establishment of a register of provincial properties.
Public Finance Management Act 1999 (Act 1 of 1999)	Assets	Accounting officer of departments	Management, safeguarding and maintenance
Regulations promulgated in terms of Section 76 of the PFM Act, 1999 (GG no 21249 of 31/05/2000)	Immovable state property	Accounting officer of department	Sale at market value
		Accounting officer of department	Letting at market-related tariffs
	Trust money and property	Accounting officer of department	Safekeeping and proper use
Western Cape Land Administration Act, 1998 (Act 6 of 1998) (+)	Immovable Property	Premier	Unless otherwise expressly provided for in any other law, may acquire immovable property which must be registered in the name of the Western Cape Provincial Government.
		Premier	May dispose of provincial state land, unless otherwise expressly provided for in any other law.
		Premier	Must coordinate the provincial government's actions regarding administration of provincial state land with the other spheres of government.
		Accounting Officer	Proceeds of any disposal of provincial state land must be paid into a Land Capital Account.
		Accounting Officer	Establishment and maintenance of a consolidated register of all provincial state land.
		Premier	Annual report to Western Cape Parliament detailing formal offers from public to acquire provincial state land and all disposal of such land.
(*), (+), (x) Acts indicated as such to be read together.			

Regulations promulgated under Section 10 of Act 6 of 1998 in PN 595/1998 of 16/10/1998	Provincial State Land	Premier MEC	To be acquired for consideration which is less than or equal to its market value.
		Head of Property Management Component	To be disposed of for consideration which is more or equal to its market value.
		Responsible Minister	Shall appoint a Provincial Property Committee consisting of Head of Provincial Property Management, heads of Provincial Departments, three persons with property expertise (non-provincial employees) and one representative each from respectively the National Department of Land Affairs and Public Works.
		Property Committee	Consider reports of Head of Property Management on acquisitions and disposals to report every two months to the Minister and to monitor the administration of Provincial State Land.
		Provincial User Departments	Shall regularly evaluate their use of land with a view to determining whether they have surplus land, require additional land and/or require improvements to land. They have to report their evaluations annually to the Head of Provincial Property Management.
		Head of Property Management Component	Shall be responsible for the administration of the Provincial State Land portfolio.
		Head of Property Management Component	Shall use its best endeavours to market Provincial State Land which is surplus to the Province's requirements.
		Head of Property Management Component	Shall in a manner that is compatible with the reasonable requirements of the User Departments administer provincial state land and all other land leased or utilised by them.
		Any building or improvements on Provincial State Land	User Departments
	Responsible Minister		Shall give consent for demolition after consultation and consideration of the view of the Property Committee.
State Land Disposal Act, 1961 (Act 48 of 1961)	State Land (national)	President	Sell, exchange, donate or lease

(\*), (+), (x) Acts indicated as such to be read together.

Land Administration Act, 1995 (Act 2 of 1995) (+)	Land	Minister of Land Affairs	May delegate any power conferred upon him or her regarding land matters to a Premier or an MEC.
		President	May assign the administration of a law regarding land matters to a Premier of a province.
Western Cape Provincial Tender Board Law, 1994 (Law 8 of 1994)	Provincial property	Provincial Tender Board	Issuing of directives in respect of hiring, letting, acquisition and disposal.
Western Cape Exchequer Law, 1994 (Law 4 of 1994)	State property	Accounting officer of department	Acquisition, receipt, custody and disposal (Accounting for all state moneys)
Local Government: Property Rates Bill 2000	Immovable Property	Head of Property Management Component Department of Public Works	All property including property owned by national and provincial organs of state will be rateable.
South African Schools Act, 1996 (Act 84 of 1996) (x)	Immovable property	Governing Body of Public School	A public school which occupies immovable property owned by the state has the right to occupy and use the property for the benefit of the school for educational purposes.
		MEC for Education	Can restrict the right of a public school to occupy and use such property if it is not utilised by the school in the interest of education.
		MEC for Education and Governing Body of Public School	No immovable property owned by the state and occupied by a public school may be alienated unless an agreement has been concluded between MEC and the prospective owner.
		Governing Body of School	May apply to Head of Provincial Education to be allocated the function to maintain and improve the school's property.
	Land or a real right in or over land	MEC for Education	May expropriate land or a real right in or over land for school education purposes.
Western Cape Provincial School Education Act, 1997 (Act 12 of 1997) (x)	School buildings and buildings for school education	MEC for Education	May, out of money appropriated for this purpose by legislature, establish and maintain such buildings for public schools and hostels as he or she may deem necessary or expedient and provide such equipment and erect such buildings as he or she may deem necessary or expedient.
	School property and buildings (including school hostels) and grounds	Governing Body of School	May apply in writing to the Head of Provincial Education to maintain and improve the school's property, buildings and grounds.
	State-owned immovable property, used for school education purposes	Public School	Subject to Section 20 (1)(K) of the SA Schools Act, 1996, a public school, which occupies immovable property owned by the State, has the right to occupy and use such property for the benefit of the school for education purposes and only the responsible MEC may restrict this right.

(\*), (+), (x) Acts indicated as such to be read together.

		MEC for Education	No immovable state property occupied by a public school may be alienated unless an agreement has been concluded between the responsible MEC with the concurrence of the MEC responsible for Finance and the prospective owner.
	Public Schools	MEC for Education	May in terms of Section 33 of the SA Schools Act, 1966, close a public school or part thereof.
	Immovable property	MEC for Education	Land and real rights in or over land for any school education purpose in the province may be expropriated by the responsible MEC in terms of Section 58 of the SA Schools Act, 1996.
Western Cape Technical Colleges Law, 1994 (Law 12 of 1994)	Immovable property	State-aided Technical Colleges (Juristic persons)	May purchase or otherwise acquire, hold, hire, let, sell, exchange or otherwise alienate immovable property
		Responsible MEC	Has to approve the letting (for a period longer than two years), sale, exchange or alienation of immovable property acquired with financial assistance of State.
			May grant a loan to the college for the erection of buildings, acquisition or improvement of land.
Health Act, 1977 (Act 63 of 1977)	Hospital facilities	Provincial administrations	Function is to provide these facilities.
	Facilities for treatment of patients suffering from acute mental illness		
	Facilities for the treatment (24 hours or less) of out-patients		
	Maternity homes and services		
Hospitals Ordinance, 1946 (Ord. 18 of 1946)	Provincial Hospitals	Provincial Hospital Department	Establishment, maintenance and control of Provincial hospitals
	Immovable property	Hospital Trustees	All immovable property vests in the Hospital Trustees consisting of the Director-General, Director of Hospital Services and the Chairperson of the Hospital Board of which the immovable property has been acquired.
		Hospital Board	Each provincial hospital has a Hospital Board which may receive and dispose of immovable property in a manner approved by Premier.
		Hospital Board	May with approval of Premier invest in immovable property which shall be registered in the name of the Board.
National Environmental Management Act, 1998 (Act 107 of 1998)	Property for Environmental Purposes	Minister of Environmental Affairs	Purchase or expropriate property
	State Land		Reserve State Land
			Delegate any of his powers, functions or duties to an MEC responsible for Environmental Affairs

(\*), (+), (x) Acts indicated as such to be read together.

Western Cape Conservation Board Act, 1998 (Act 15 of 1998)	Immovable property	Western Cape Conservation Board (Corporate Body)	With approval of responsible Minister and Provincial Minister of Finance lease, purchase or acquire immovable property; let, sell, exchange or alienate its immovable property; mortgage or burden with a servitude its immovable property; enter into agreements with any person to undertake, on any immovable property leased, purchased or otherwise acquired by or made available to the Board, a business or trade for the convenience of visitors and recommend to Minister to proclaim or de-proclaim land as a nature conservation area.
National Heritage Resources Act, 1999 (Act 25 of 1999)	National Estate (those heritage resources of SA which are of cultural significance)	Provincial Heritage Resources Authorities (to be established by responsible MEC)	To enable and encourage communities to nurture and conserve their legacy
	Heritage Resources	Each State Department	To maintain and conserve the heritage resources under its control in accordance with standards and procedures set out in regulations made by the South African Heritage Resources Agency (SAHRA)
Western Cape Cultural Commission and Cultural Councils Act, 1998 (Act 14 of 1998)	Immovable property	Cultural Commission (Juristic person)	Control, manage, develop and maintain immovable property placed under its supervision with the aim to preserve, promote and develop culture in the Western Cape in accordance with policy.
		Provincial Minister responsible for Cultural Affairs	Subject to the Western Cape Land Administration Act, 1998 (Act 6 of 1998) acquire, develop and maintain immovable property or place such property under supervision of the Cultural Commission.
Museums Ordinance, 1975 (Ord. 8 of 1975)	Land or buildings	Administrator	May by agreement or expropriation acquire land or buildings for the establishment of museums.
	Immovable property	Management Committee (every museum has such a controlling body)	To receive, hold, conserve and study all movable and immovable property acquired by it or in its possession.
Housing Act, 1997 (Act 107 of 1997)		National, Provincial and Local spheres of government	The facilitation of a sustainable housing development process, to lay down general principles applicable to housing development in all spheres of government, to define the functions of national, provincial and local governments in respect of housing development, to provide for the establishment of a South African Housing Development Board and provincial housing development boards and the financing of national housing programmes.
Western Cape Housing Development Act, 1999 (Act 6 of 1999)	Immovable property	Western Cape Housing Development Board (Juristic person)	Any immovable property that was passed to the Board on abolition of the Provincial Housing Development Board must be transferred, on a date to be determined by the National Minister, by the Board to the local government in whose area of jurisdiction such property is situated.

Rental Housing Act, 1999 (Act 50 of 1999)	Rental housing property	Government	Must promote a stable and growing market that progressively meets the latent demand for affordable housing among persons historically disadvantaged by unfair discrimination by the introduction of incentives and mechanisms that improve conditions in the rental housing market.
		National government	Must introduce a policy framework, including norms and standards on rental housing.
		Provincial (and local) government	Must pursue the objects of the act within the national policy framework and within the context of broader national housing policy in a balanced and equitable manner.
		MEC responsible for Housing	May establish a Provincial Renting Housing Tribunal
Western Cape Planning and Development Act, 1999 (Act 7 of 1999)	All land in the Province	Responsible Provincial Minister	Shall prepare and submit to Cabinet a provincial integrated development framework in respect of the Western Cape province. The general purpose of this framework is to lay down strategies, proposals and guidelines, including development objectives and implementation plans by means of development planning.
Land Use Planning Ordinance, 1985 (Ord. 15 of 1985)	All land in the Province, excluding former black development areas	Responsible Provincial Minister	To regulate land use planning and provide for matters incidental thereto, including structure plans, zoning schemes, subdivision of land, a Planning Advisory Board, as well as other general provisions. Must be read in conjunction with still-valid Regulations of the repealed Black Communities Development Act, 1984 (Act 4 of 1984).
Occupational Health and Safety Act, 1993 (Act 85 of 1993) as amended by Acts 181/1993 and 66 of 1995	Buildings used for work	Every employer	Makes provision for the health and safety of persons at work and for the health and safety of persons in connection with the use of plant and machinery; the protection of persons other than persons at work against hazards to health and safety arising out of or in connection with the activities of persons at work.
Cape Town Foreshore Act, 1950 (Act 26 of 1950) as amended in 1978	Foreshore land	Cape Town Foreshore Board	The ownership in the land comprising the foreshore shall vest in the Board
Roads Ordinance 1976 (Ord. 19 of 1976)	Public Roads / Public Paths	Administration	Public roads and public paths proclaimed in terms of Section 3 (1) (a) shall vest in the Administration (deemed to be the "Road Authority")
	Property for Road Purposes	Roads Trustees	The Roads Trustees (Provincial Secretary) and the Provincial Roads Engineer may with the approval of the Administrator acquire property for road purposes and may alienate any property of which ownership vests in them
		Road Authority	May expropriate property for road purposes
(*), (+), (x) Acts indicated as such to be read together.			